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TITLE 3—THE PRESIDENT

PROCLAMATION 3105

CARRYING OUT THE PROTOCOL OF TERMS OF ACCESSION BY JAPAN TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE AND FOR OTHER PURPOSES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. WHEREAS, pursuant to the authority vested in the President by the Constitution and the statutes, including section 350 of the Tariff Act of 1930, as amended, on October 30, 1947, he entered into a trade agreement with certain foreign countries, which trade agreement consists of the General Agreement on Tariffs and Trade and the related Protocol of Provisional Application thereof, together with the Final Act Adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (61 Stat. (pts. 5 and 6) A7, A11, and A2050) and by Proclamation No. 2761A of December 16, 1947 (61 Stat. 1103) he proclaimed such modifications of existing duties and other import restrictions of the United States and such continuance of existing customs or excise treatment of articles imported into the United States as were then found to be required or appropriate to carry out the said trade agreement on and after January 1, 1948, which proclamation has been supplemented by Proclamation 2954 of November 26, 1951 (66 Stat. C6) by the proclamations referred to in the second recital of the said proclamation of November 26, 1951, by Proclamation 2960 of January 5, 1952 (66 Stat. C16) by Proclamation 3007 of March 2, 1953 (67 Stat. C35) and by Proclamation 3059 of June 30, 1954 (3 CFR, 1954 SUPP., p. 26)

2. WHEREAS Public Law 479, 83d Congress (68 Stat. (pt. 1) 454) provides as follows:

Paragraph 1530 (e) of the Tariff Act of 1930, as amended, is amended by adding at the end thereof the following: "For the purposes of this paragraph and any existing or future proclamation of the President relating thereto, footwear of which a major portion, in area, of the basic wearing surface of the outer soles (that part of the article, not including the heel, that is designed to be the basic wearing surface and to resist wear on contact with any surface) is composed of india rubber or any substitute for rubber, or both, shall be deemed to have soles wholly or in chief value of india rubber or substitutes for rubber." The foregoing amendment shall enter into force as soon as practicable, on a date to be specified by the President in a notice to the Secretary of the Treasury following such negotiations as may be necessary to effect a modification or termination of any international obligations of the United States with which the amendment might conflict, but in any event not later than one hundred and eighty days after the passage of this Act.;

3. WHEREAS section 2 of Public Law 689, 83d Congress (68 Stat. (pt. 1) 896), reads as follows:

SEC. 2 (a) Paragraph 720 of title I of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1001, par. 720), is amended by adding at the end thereof the following subparagraph:

"(d) Fish sticks and similar products of any size or shape, fillets, or other portions of fish, if breaded, coated with batter, or similarly prepared, but not packed in oil or in oil and other substances, whether in bulk or in containers of any size or kind, and whether or not described or provided for elsewhere in this Act, if uncooked, 20 per centum ad valorem; cooked in any degree, 30 per centum ad valorem."

(b) The foregoing amendment shall enter into effect as soon as practicable on a date to be specified by the President in a notice to the Secretary of the Treasury following such negotiations as may be necessary to effect a modification or a termination of the international obligations of the United States with which the amendment would be in conflict.;

4. WHEREAS I have found as a fact that certain existing duties and other import restrictions of the United States of America, of other contracting parties to the said General Agreement, and of Japan are unduly burdening and restricting the foreign trade of the United States of America and that the purposes declared in the said section 350 of the Tariff Act of 1930, as amended, will be promoted by a trade agreement between the Government of the United States of

(Continued on p. 5381)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

America and the Governments of some or all of the other countries referred to in this recital;

5. WHEREAS I have found as a fact that the provisions of the amendments to the Tariff Act of 1930 set forth in the second and third recitals of this proclamation are such as to conflict with obligations of the United States of America to other contracting parties to the said General Agreement and to result in existing duties or other import restrictions of the United States of America or of other such contracting parties unduly burdening and restricting the foreign trade of the United States of America;

6. WHEREAS, pursuant to section 3 (a) of the Trade Agreements Extension Act of 1951 (65 Stat. 72) I transmitted to the United States Tariff Commission for investigation and report lists of all articles imported into the United States of America to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment in the trade agreement negotiations with the governments of the foreign countries referred to in the third recital of this proclamation, and the Tariff Commission made an investigation in accordance with section 3 of said Trade Agreements Extension Act and thereafter reported to the President;

7. WHEREAS reasonable public notice of the intention to conduct trade agreement negotiations was given, the views presented by persons interested in such negotiations were received and considered, and information and advice with respect to such negotiations were sought and obtained from the Departments of State, Agriculture, Commerce and Defense and from other sources;

8. WHEREAS, the period for the exercise of the authority of the President to enter into foreign trade agreements under section 350 having been extended by section 1 of Public Law 464, 83d Congress (68 Stat. (pt. 1) 360) until the expiration of one year from June 12, 1954, on June 8, 1955, as a result of the finding specified in the fourth recital of this proclamation, I entered, through my duly empowered plenipotentiary, into a trade agreement providing for the accession to the said General Agreement of the Government of Japan, which trade agreement consists of the Protocol of Terms of Accession of Japan to the General Agreement on Tariffs and Trade, dated June 7, 1955, including the Annexes thereto, authentic in the English and French languages as indicated therein, copies of paragraphs 1 to 11 of which protocol, and of Schedule XX contained in Annex A thereto, are annexed to this proclamation and identified as Attachment A,[1]

9. WHEREAS the said protocol of accession has been signed by the Government of Japan and that Government will become a contracting party to the said General Agreement on September 10, 1955, provided that by August 11, 1955, favorable votes on a decision pursuant to Article XXXIII of the said General Agreement for the accession of Japan to that Agreement under the terms of the said protocol of accession have been received from two-thirds of the governments which are then contracting parties;

10. WHEREAS, the said protocol of accession specified in the eighth recital of this proclamation having been signed on behalf of the Government of the United States of America on June 8, 1955, and the notification of the intention to apply the concessions provided for in Schedule XX contained in Annex A to the said protocol of accession having been given on June 8, 1955, to the Executive Secretary to the CONTRACTING PARTIES to the said General Agreement pursuant to paragraph 3 of the said protocol of accession, the said Schedule XX contained in Annex A thereto will become a schedule to the said General Agreement relating to the United States of America on September 10, 1955, if the Government of Japan then becomes a contracting party to the General Agreement, as set forth in the ninth recital of this proclamation;

11. WHEREAS, under paragraph 4 of the protocol of accession specified in the eighth recital of this proclamation, a contracting party to the General Agreement which has given the notification referred to in paragraph 3 of the protocol may withhold in whole or in part any concession provided for in its schedule annexed thereto which was initially negotiated with a contracting party which has not given such notification;

12. WHEREAS I find that each modification of existing duties and other import restrictions of the United States of America and each continuance of existing customs or excise treatment of articles imported into the United States of America which is proclaimed in Part I of this proclamation will be required or appropriate to carry out the trade agreement specified in the eighth recital of this proclamation on and after such date as shall be notified by the President to the Secretary of the Treasury, and published in the FEDERAL REGISTER, as the date on and after which the President considers such modification or undertaking to continue treatment should not be withheld pursuant to the said paragraph 4 of the protocol of accession specified in the eleventh recital of this proclamation;

13. WHEREAS, the period for the exercise of the authority of the President to enter into foreign trade agreements under the said section 350 having been extended by the said Public Law 464 specified in the eighth recital of this proclamation until the expiration of one year from June 12, 1954, on June 8, 1955, as a result of the finding specified in the fifth recital of this proclamation and following negotiations with the Government of the Kingdom of the Netherlands and the Belgo-Luxembourg Economic Union, and with the Government of Canada, respectively, regarding compensation for their interests in the concessions in Part I of Schedule XX to the said General Agreement with which the said amendments to the Tariff Act of 1930 set forth in the second and third recitals of this proclamation would conflict, I entered, through my duly empowered plenipotentiary, into two trade agreements providing that the United States of America would apply to the products described in such trade agreements the treatment indicated therein as though such products were described in Part I of the said Schedule XX, with the understanding that the products will be specifically included in the said Schedule XX, and with the further understanding that the said amendments set forth in the second and third recitals of this proclamation would not, after the entry into force of the said trade agreements, conflict with obligations of the United States under the said Schedule XX, copies of which two trade agreements are annexed to this proclamation and identified as Attachments B[1] and C,[1] respectively;

14. WHEREAS I determine that each modification of existing duties and other import restrictions of the United States of America and each continuance of existing customs or excise treatment of articles imported into the United States of America which is proclaimed in Part II of this proclamation will be required or appropriate to carry out the two said trade agreements specified in the thirteenth recital of this proclamation on and after such date or dates as shall be notified by the President to the Secretary of the Treasury and published in the FEDERAL REGISTER as the date or dates of entry into force of the two said trade agreements;

15. WHEREAS, pursuant to the authority vested in the President by the Constitution and the statutes, including the said section 350 of the Tariff Act of 1930, as amended, on October 30, 1947, he entered into an exclusive trade agreement with the Government of the Republic of Cuba (61 Stat. (pt. 4) 3699) which exclusive trade agreement includes certain portions of other documents made a part thereof and provides for the treatment in respect of ordinary customs duties of products of the Republic of Cuba imported into the United States of America, and by Proclamation

[1] Filed as part of the original document.

No 2764 of January 1 1948 (62 Stat 1465), he proclaimed such modifications of existing duties and other import restrictions of the United States of America in respect of products of the Republic of Cuba and such continuance of existing customs and excise treatment of products of the Republic of Cuba imported into the United States of America as were then found to be required or appropriate to carry out the said exclusive trade agreement on and after January 1 1948 which proclamation has been supplemented by Proclamation 3040 of December 24 1953 (3 CFR 1953 Supp, p 51), and by the proclamations referred to in the fourth recital of the said proclamation of December 24 1953;

16 WHEREAS, I determine that, on and after the effective date mentioned in the first notification by the President to the Secretary of the Treasury in accordance with Part I (b) (1) of this proclamation with respect to the application of certain provisions of Part I of Schedule XX contained in Annex A to the said protocol of accession specified in the eighth recital of this proclamation, the inclusion of certain products in the list set forth in the ninth recital of the said proclamation of January 1, 1948 as amended and rectified will not be required or appropriate to carry out the said exclusive trade agreement with Cuba mentioned in the fifteenth recital of this proclamation so that on and after the date mentioned in the said first notification by the President to the Secretary of the Treasury it will be required or appropriate that the said list as amended and rectified, be further amended to read as follows:

Tariff Act of 1930, para graph	Description of products	Rate of duty
19	Casein or lactarene and mixtures of which casein or lactarene is the component material of chief value, not specially provided for	2 2¢ per lb
28 (a)	All colors, dyes, or stains, whether soluble or not in water except those provided for in paragraph 28 (b) Tariff Act of 1930	32½% ad val. but not less than 2.8¢ per lb and 18% ad val
411	Baskets and bags, wholly or in chief value of wood (not including bamboo or osier or willow), papier mache palm leaf or compositions of wood not specially provided for	45% ad val
412	Spring clothespins	8¢ per gross.
506	Sugar after being refined, when tinctured colored or in any way adulterated	32½% ad val but not less than the rate of duty provided for sugar of the same polariscopic test in item 501 of Part II of Schedule XX of the General Agreement on Tariffs and Trade
703	Pork (except bacon, hams and shoulders), if cooked boned packed in air tight containers, or made into fresh pork sausages	2 6¢ per lb
717 (c)	Fish, dried and unsalted: Shark fins	½¢ per lb.
724	Corn or maize (except seed corn or maize, certified by a responsible officer or agency or a foreign government in accordance with the rules and regulations of that government to have been grown and approved especially for use as seed, in containers marked with the foreign government's certified seed corn tags), including cracked corn.	10¢ per bu of 56 lb
724	Corn grits, meal, and flour and similar products	40¢ per 100 lb
727	Milled rice (bran removed, all or in part)	2¢ per lb.
739	Grapefruit and shaddock or pomelo peel, candied crystallized or glace, or otherwise prepared or preserved.	6 4¢ per lb
743	Oranges (except mandarin oranges in air tight containers)	½¢ per lb
747	Pineapples in bulk	0 68¢ each
759	Peanuts, not shelled	3 4¢ per lb
759	Peanut butter	5.6¢ per lb.
761	Edible nuts, pickled or otherwise prepared or preserved and not specially provided for.	28% ad val.
765	Beans, other than lima beans, green or unripe, not specially provided for.	3.1¢ per lb
765	Beans, not specially provided for, dried, when entered for consumption during the period from September 1, in any year, to the following April 30, inclusive or when withdrawn from warehouse for consumption at any time.	2 4¢ per lb
765	Beans, not specially provided for, not in brine but otherwise prepared or preserved in any manner.	2 4¢ per lb. on the entire contents of the container.
772	Tomatoes, prepared or preserved in any manner.	20% ad val.
774	Peppers in their natural state	2.2¢ per lb
776	All coffee substitutes and adulterants, and coffee essences	2.4¢ per lb.
778	Ginger root candied or otherwise prepared or preserved	18% ad val.
781	Pepper, capsicum or red pepper or cayenne pepper, unground	4¢ per lb
802	Compounds and preparations of which distilled spirits are the component material of chief value and not specially provided for	$4 50 per proof gal
804	Still wines produced from grapes containing over 14% of absolute alcohol by volume (except such wines entitled under regulations of the United States Bureau of Internal Revenue to a type designation which includes the name "Marsala", if so designated on the approved label, and if in containers holding each not over 1 gallon: and not including vermouth)	$1 per gal
1506	Brooms made of broom corn, straw, wooden fiber or twigs	20% ad val
1507	Bristles, sorted, bunched, or prepared	2 4¢ per lb
1530 (e)	Boots, shoes, or other footwear, (including athletic or sporting boots and shoes) made wholly or in chief value of leather not specially provided for:	
	Huaraches	18% ad val
	Turn or turned boots and shoes (except those for women and misses).	8% ad val.
	Turn or turned footwear for men youths or boys (except boots and shoes).	16% ad val
1531	Bags (except women s and children's handbags), baskets, satchels card cases, pocketbooks (except women's and children's), jewel boxes, portfolios, and other boxes and cases, not jewelry, wholly or in chief value of reptile leather and manufactures of reptile leather or of which reptile leather is the component material of chief value (except buckles and other articles of wearing apparel), not specially provided for (not including any of the foregoing permanently fitted and furnished with traveling bottle, drinking, dining or luncheon, sewing, manicure, or similar sets)	14% ad val.
1541 (a)	Musical instruments and parts thereof, not specially provided for: Stringed instruments (not including pianos) and parts thereof (except bows for stringed instruments and parts of such bows).	32% ad val
1551	Photographic film negatives, imported in any form, for use in any way in connection with moving picture exhibits, or for making or reproducing pictures for such exhibits except undeveloped negative moving picture film of American manufacture exposed abroad for silent or sound news reel:	
	Exposed but not developed	1 8¢ per lin ft
	Exposed and developed	2 7¢ per lin ft
1551	Photographic-film positives, imported in any form, for use in any way in connection with moving picture exhibits, including herein all moving motion, motophotography, or cinematography film pictures, prints positives, or duplicates of every kind and nature and of whatever substance made.	0 9¢ per lin ft
1551	Photographic and motion picture films or film negatives taken from the United States and exposed in the Republic of Cuba by an American producer of motion pictures operating temporarily in said Republic of Cuba in the course of production of a picture 60 percentum or more of which is made in the United States.	⅛¢ per lin ft
1558	All articles, manufactured, in whole or in part not specially provided for:	
	Coconut shell char and marino glue pitch	16% ad val
	Dog food, unfit for human consumption	8% ad val
	Edible preparations for human consumption:	
	Preparations for flavoring or seasoning food, in chief value of yeast extract, containing no alcohol (not including sauces)	10% ad val
	Other (except banana flour frog legs plantain flour thick soy and yeast)	16% ad val

NOW, THEREFORE I Dwight D. Eisenhower, President of the United States of America acting under and by virtue of the authority vested in me by the Constitution and the statutes including the said section 350 of the Tariff Act of 1930, as amended do proclaim as follows:

PART I

To the end that the trade agreement for accession specified in the eighth recital of this proclamation may be carried out:

(a) Subject to the provisions of subdivision (b) of this Part such modifications of existing duties and other import restrictions of the United States of America and such continuance of existing customs or excise treatment of articles imported into the United States as are specified or provided for in paragraphs 1 to 11 inclusive of the said protocol of accession specified in the eighth recital of this proclamation and in Schedule XX contained in Annex A thereto shall be effective on and after such date as shall hereafter be notified by the President to the Secretary of the Treasury and published in the FEDERAL REGISTER;

(b) The application of the provisions of subdivision (a) of this Part shall be subject to the applicable terms condi-

tions, and qualifications set forth in paragraphs 1 to 11, inclusive, of the said protocol of accession, in Schedule XX contained in Annex A thereto, in Parts I, II, and III of the said General Agreement, in Part I of, and the general notes in, Schedule XX (original) thereof, and in the protocol of provisional application mentioned in the first recital of this proclamation, including any applicable amendments and rectifications of the said General Agreement; and the application of the provisions of subdivision (a) of this Part shall also be subject to the exception that no rate of duty or import tax shall be applied to a particular article by virtue of this proclamation if, when the article is entered, or withdrawn from warehouse, for consumption—

(1) the date is prior to the date which may be notified by the President to the Secretary of the Treasury and published in the FEDERAL REGISTER as the date on and after which the concession represented by such rate should not be withheld, or

(2) more favorable customs treatment is prescribed for the article by any of the following then in effect:

(i) a proclamation pursuant to said section 350 of the Tariff Act of 1930, as amended, but the application of such more favorable treatment shall be subject to the qualifications set forth in the second paragraph of the general notes in Schedule XX contained in Annex A annexed to the said protocol of accession specified in the eighth recital of this proclamation; or

(ii) any other proclamation, a statute, or an executive order, which proclamation, statute, or order either provides for an exemption from duty or import tax or became effective subsequent to June 8, 1955.

PART II

To the end that the two trade agreements specified in the thirteenth recital of this proclamation may be carried out and that the said amendments to the Tariff Act of 1930 set forth in the second and third recitals of this proclamation shall not thereafter be in conflict with international obligations of the United States, such modifications of existing duties and other import restrictions of the United States of America and such continuance of existing customs or excise treatment of articles imported into the United States as are specified or provided for in the two said trade agreements specified in the thirteenth recital of this proclamation shall be effective on and after such date as shall hereafter be notified by the President to the Secretary of the Treasury, and published in the FEDERAL REGISTER,[2] as the date of the entry into force of the two said trade agreements.

PART III

To the end that the said exclusive trade agreement specified in the fifteenth recital of this proclamation may be carried out, the list set forth in the ninth recital of the said proclamation of January 1, 1948, as heretofore amended and rectified, shall be further amended to read as specified in the sixteenth recital of this proclamation, effective on the effective date mentioned in the first notification by the President to the Secretary of the Treasury in accordance with Part I (b) (1) of this proclamation.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 22d day of July in the year of our Lord nineteen hundred and fifty-five, and of the Independence of the United States of America the one hundred and eighteth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 55-6159; Filed, July 27, 1955; 10:27 a. m.]

LETTER OF JULY 22, 1955

[CARRYING OUT THE PROTOCOL OF TERMS OF ACCESSION BY JAPAN TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE AND FOR OTHER PURPOSES]

THE WHITE HOUSE,
Washington, July 22, 1955.

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Reference is made to my proclamation of July 22, 1955 [1] carrying out the Protocol of Terms of Accession by Japan to the General Agreement on Tariffs and Trade and for other purposes.

Pursuant to the procedure described in Part II of that proclamation, I hereby notify you that the two agreements referred to in the thirteenth recital of the proclamation will enter into force on July 24, 1955.

I also notify you that the amendment to the Tariff Act of 1930 made by section 2 of Public Law 689, approved August 28, 1954, with respect to duties applicable to certain prepared fish shall enter into force on July 24, 1955.

DWIGHT D. EISENHOWER

[F. R. Doc. 55-6158; Filed, July 27, 1955; 10:27 a. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 31—PERFORMANCE RATING BOARDS OF REVIEW

APPEALS

Section 31.3 is amended as set out below.

§ 31.3 *Appeals*—(a) *Rating of "Unsatisfactory"* An employee with an unsatisfactory performance rating may obtain the one impartial review within his agency provided by law, or appeal directly to the appropriate board of review, or appeal to the board of review after obtaining the impartial review.

(b) *Rating of "Satisfactory" or better.* An employee with a satisfactory or better performance rating may obtain the one impartial review within his agency provided by law or he may appeal to the approprate board of review, but in no case may he obtain both reviews.

(c) *Time limits on appeals to boards of review.* Each appeal to a board of review shall be made, in writing, to the chairman of the appropriate board within the following time limits:

(1) Thirty (30) days after the date on which the employee receives notice of his performance rating; or

(2) Ten (10) days after the date on which the employee withdraws his request for an impartial review within his agency, if more than thirty (30) days have elapsed since he received notice of his rating; or

(3) Thirty (30) days after the date on which the employee receives a decision from his agency on an impartial review of an unsatisfactory rating. Boards of review may waive these time limits for good and sufficient reasons.

(Sec. 8, 64 Stat. 1038)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-6128; Filed, July 27, 1955; 8:53 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1955 Incentive Payment Program (Shorn Wool), Amdt. 1]

PART 472—WOOL

SUBPART—1955 INCENTIVE PAYMENT PROGRAM FOR SHORN WOOL

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation and the Commodity Stabilization Service, containing the requirements of the 1955 Incentive Payment Program for Shorn Wool (20 F. R. 2011) are amended, as follows:

1. In § 472.607, paragraph (a) is deleted and the following is substituted therefor:

(a) *Filing.* The application for payment shall be filed by the producer entitled thereto with the ASC county office serving the area where the headquarters of the applicant's farm or ranch is located. If the producer has more than one farm or ranch, with headquarters in more than one county, separate applications for payment shall be filed with the ASC county office serving each such headquarters, except that if the producer sells his entire clip as one lot, he may file his application in any one of these ASC county offices. In the event the producer conducts all his business

[2] See F. R. Doc. 55-6158, *infra*.

[1] See Proclamation 3105, *supra*.

transactions from his residence or office, and his farm or ranch has no other headquarters, his residence or office may be considered the farm or ranch headquarters. Applications by producers located in the Territories or possessions shall be filed with the Washington State ASC Office, Spokane, Washington. An application for payment should be filed as soon as possible after the producer's sales of wool for the 1955 marketing year have been completed and must be filed not later than 30 days after the end of the marketing year, that is, not later than April 30, 1956. The ASC county office may waive this 30-day limitation on applications filed before July 31, 1956, if delayed filing is due to causes beyond the control of the applicant or other good causes.

2. In § 472.607 (b) the following is added at the end of paragraph (b) "If it is the practice of the person or firm that prepares the sales document to furnish a carbon copy to the seller, the producer may submit that carbon copy in support of his application, provided the carbon copy bears an original signature of the person or firm that prepared the original sales document."

3. In § 472.607 (c) subparagraph (10) is deleted and the following is substituted therefor:

§ 472.607 *Application for payment.* * * *

(c) *Contents of sales documents.* * * *

(10) A sales document issued by a marketing agency and covering sales made on various dates within the 1955 marketing year shall contain a statement that the wool was marketed during the 1955 marketing year as required by the regulations issued pursuant to the National Wool Act of 1954.

4. In § 472.609, the second sentence is deleted, and the following is substituted therefor: "The ASC county office will determine with respect to each person who signs an application for incentive payment in a representative or fiduciary capacity as agent, attorney in fact, officer, executor, etc., whether he was properly authorized to sign in such capacity."

5. The second sentence of § 472.610 is deleted, and the following sentence is substituted therefor: "Payment of less than $3.00 to an applicant will not be made."

6. In § 472.612 (a), the words "the serial number of the application," are inserted in the first sentence immediately after the word "stating."

7. Section 472.613 is deleted, and the following is substituted therefor:

§ 472.613 *Incompetent Indians.* Applications for payment may be filed on behalf of Indians who are incompetent by the Superintendent of the Indian Field Service of the reservation on which the Indian resides or by the authorized representative of such Superintendent. In such cases, the application for incentive payment will be filed in the ASC county office serving the area where the headquarters of the Indian's farm or ranch is located.

8. Section 472.615 is deleted, and the following is substituted therefor:

§ 472.615 *Set-off.* (a) If the county debt register shows that the applicant for payment is indebted to CCC, to any other agency within the United States Department of Agriculture, or to any other agency of the United States, the ASC county office will set-off such indebtedness against the payment due to the applicant. Such set-off shall not deprive the applicant of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

(b) If the payment due to the applicant has been assigned by him, the ASC county office will accept the assignment subject to setting off such debts as exist at the time of acceptance by the ASC county office with interest to the date of set-off.

9. Section 472.616 is deleted, and the following is substituted therefore:

§ 472.616 *Assignments.* The producer may assign all payments which may be determined to be due him under this program for the 1955 marketing year by filing with the ASC county office the original and two copies of CCC Wool Form 49, "Assignment of Payment under National Wool Act of 1954," duly executed by both parties. Such assignment shall be null and void unless it is freely made and (a) is executed by the producer in the presence of at least two attesting witnesses, neither of whom shall be an employee or agent of, or by consanguinity or marriage related to, the assignee; or (b) is acknowledged by the producer before a notary public, a member of the ASC county committee, the ASC county office manager, or a designated employee of such committee. This assignment may only be given as security for cash advanced or to be advanced by a financing or marketing agency on sheep, lambs, or wool. The producer shall not execute more than one assignment covering payments due him under this program for incentive payments on shorn wool. The assignee shall not reassign to another person any payment which has been assigned to him pursuant to this section. CCC will make payment pursuant to an accepted assignment unless the ASC county office is furnished evidence of a mutual cancellation of the assignment by both parties thereto or unless the assignee asks the ASC county office in writing that payment be made to the assignor and not to the assignee.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 702–709, 68 Stat. 910–912; 15 U. S. C. 714c, 7 U. S. C. 1781–1787, 1446)

Issued this 22d day of July 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture and President of Commodity Credit Corporation.

[F. R. Doc. 55–6122; Filed, July 27, 1955; 8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 6]

PART 728—WHEAT

SUBPART—WHEAT MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR THE 1955 CROP

DATES HARVESTING OF WHEAT IS NORMALLY SUBSTANTIALLY COMPLETED

The amendment herein is issued under the wheat marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, for the purpose of publishing the date in each county on which the harvesting of wheat is normally substantially completed as determined by the several State committees, taking into consideration the recommendations of the county committees, for the purpose of §§ 728.561, 728.577, 728.582 and 728.583. Since the 1955 crop of wheat is being harvested and farmers should be informed of the amendment as soon as possible, it is hereby found and determined that compliance with the notice, procedure and effective date provisions of the Administrative Procedure Act are unnecessary and contrary to the public interest. Therefore, the amendment herein shall become effective upon the date of filing this document with the Director, Division of the Federal Register.

1. Section 728.561 is amended by adding the following at the end of paragraph (a) thereof: "For the purpose of this section and of §§ 728.577 (b) 728.582 (f) and 728.583 (c) the dates on which the harvesting of wheat is normally substantially completed in wheat-producing counties, as determined by the several State committees, are as follows:

ARKANSAS

June 25, 1955: All counties.

CALIFORNIA

July 1, 1955: Imperial.

August 15, 1955: Butte, Colusa, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yola, Yuba.

September 1, 1955: Alameda, Contra Costa, Lake, Marin, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Sonoma.

September 15, 1955: Alpine, Amador, Calaveras, Del Norte, El Dorado, Humboldt, Inyo, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Placer, Plumas, Sierra, Tuolumne.

October 1, 1955: San Luis Obispo, Shasta, Siskiyou, Trinity.

COLORADO

August 15, 1955: Larimer, Boulder, Jefferson, El Paso, Pueblo, Huerfano, Las Animas, and all counties east thereof.

November 1, 1955: Archuleta, Chaffee, Delta, Dolores, Eagle, Garfield, Grand, Jackson, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Miguel, Teller, Alamosa, Conejos, Costilla, Rio Grande, Saguache.

DELAWARE

August 1, 1955: All counties.

GEORGIA

August 1, 1955: Harris, Talbot, Upson, Crawford, Bibb, Jones, Baldwin, Hancock, Warren, McDuffie, and Columbia and all counties lying North thereof.

July 1, 1955: Muscogee, Marion, Taylor, Peach, Houston, Twiggs, Wilkinson, Washington, Glascock, Jefferson, Richmond, and all counties lying South thereof.

IDAHO

September 1, 1955: Ada, Canyon, Gem, Owyhee, Payette.

September 15, 1955: Washington, Jerome, Minidoka, Twin Falls, Cassia, Gooding.

October 15, 1955: Bonner, Valley, Bear Lake, Butte, Custer, Madison, Teton.

October 1, 1955: Remaining counties.

ILLINOIS

July 31, 1955: All counties.

INDIANA

July 16, 1955: All counties.

IOWA

August 1, 1955: All counties.

KANSAS

July 30, 1955: All counties.

KENTUCKY

August 1, 1955: All counties.

MARYLAND

September 1, 1955: Allegany, Garrett.

August 1, 1955: All other counties.

MICHIGAN

August 15, 1955: All counties south of and including Mason, Lake, Osceola, Clare, Gladwin and Arenac.

August 31, 1955: All other counties including the upper Peninsula.

MINNESOTA

September 1, 1955: All counties.

MISSOURI

July 30, 1955: All counties.

MONTANA

September 16, 1955: All counties.

NEBRASKA

July 20, 1955: Burt, Butler, Cass, Clay, Colfax, Cuming, Dodge, Douglas, Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Nuckolls, Otoe, Pawnee, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Thurston, Washington, Webster, York.

August 1, 1955: All other counties.

NEW JERSEY

July 24, 1955: All counties.

NEW MEXICO

August 1, 1955: All counties.

NEW YORK

August 15, 1955: All counties.

NORTH CAROLINA

July 15, 1955: All counties.

NORTH DAKOTA

October 1, 1955: All counties.

OHIO

July 18, 1955: All counties.

OKLAHOMA

July 15, 1955: Beaver, Cimarron, Texas.

July 1, 1955: All other counties.

OREGON

August 1, 1955: Jackson.

September 1, 1955: Benton, Malheur, Morrow, Multnomah, Sherman, Umatilla.

September 5, 1955: Lane, Yamhill.

September 10, 1955: Douglas, Linn.

September 15, 1955: Clackamas, Gilliam, Josephine, Klamath, Lincoln, Polk, Union, Washington.

September 20, 1955: Columbia.

September 30, 1955: Wheeler.

October 1, 1955: Crook, Grant, Jefferson, Lake, Marian, Wasco.

October 15, 1955: Baker.

October 20, 1955: Harney.

November 1, 1955: Wallowa.

November 15, 1955: Deschutes.

PENNSYLVANIA

August 21, 1955: All counties.

SOUTH CAROLINA

July 1, 1955: All counties.

SOUTH DAKOTA

September 1, 1955: Aurora, Bennett, Bon Homme, Brule, Charles Mix, Clay, Custer, Davison, Douglas, Fall River, Gregory, Hanson, Hutchinson, Jackson, Jones, Lincoln, Lyman, McCook, Mellette, Minnehaha, Pennington, Shannon, Todd, Tripp, Turner, Union, Washabaugh and Yankton.

September 15, 1955: Beadle, Brookings, Brown, Buffalo, Butte, Campbell, Clark, Codington, Corson, Day, Deuel, Dewey, Edmunds, Faulk, Grant, Haakon, Hamlin, Hand, Harding, Hughes, Hyde, Jerauld, Kingsbury, Lake, Lawrence, McPherson, Marshall, Meade, Miner, Moody, Perkins, Potter, Roberts, Sanborn, Spink, Stanley, Sully, Walworth and Ziebach.

TENNESSEE

July 31, 1955: All counties.

TEXAS

August 1, 1955: All counties.

UTAH

September 15, 1955: All counties.

VIRGINIA

September 1, 1955: Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Bland, Botetourt, Carroll, Craig, Floyd, Giles, Grayson, Montgomery, Patrick, Pulaski, Roanoke, Wythe, Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah, Warren.

July 20, 1955: All other counties.

WASHINGTON

August 15, 1955: Franklin.

August 31, 1955: Garfield, King.

September 1, 1955: Adams, Clark, Columbia, Cowlitz, East Ferry, Klickitat, Lincoln, Thurston, Walla Walla.

September 10, 1955: Grant, Douglas.

September 15, 1955: Asotin, Benton, Chelan, West Ferry, Spokane, Whitman.

September 20, 1955: Jefferson, Lewis, Mason.

September 30, 1955: Grays Harbor, Pierce, Skagit, Snohomish.

October 1, 1955: Okanogan, Pend Oreille, Yakima, Stevens.

October 15, 1955: Clallam, Island, Kittitas, San Juan, Whatcom.

WEST VIRGINIA

June 15, 1955: All counties.

WISCONSIN

September 1, 1955: All counties.

WYOMING

August 15, 1955: Albany, Converse, Goshen, Laramie, Niobrara, Platte.

September 1, 1955: Campbell, Brook, Sheridan, Weston, Johnson.

September 15, 1955: Big Horn, Fremont, Hot Springs, Natrona, Park, Washakie.

October 1, 1955: Carbon, Lincoln, Teton, Uinta, Sublette, Sweetwater.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies 55 Stat. 203; 7 U. S. C. 1340.)

Done at Washington, D. C., this 22d day of July 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6120; Filed, July 27, 1955; 8:52 a. m.]

[Amdt. 3]

PART 730—RICE

SUBPART—REGULATIONS PERTAINING TO RICE MARKETING QUOTAS FOR THE 1955 CROP OF RICE

EXTENSION OF TIME FOR THE DISPOSAL OF EXCESS RICE ACREAGE

The amendment herein is issued under the rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, for the purpose of extending the time for the disposal of excess rice acreage in cases where a producer is unable to dispose of the excess acreage by the required date because of conditions beyond his control.

Since the only purpose of this amendment is to provide for extending the time for disposal of excess rice acreage in certain cases, and since rice growers should be notified of this amendment as soon as possible, because the period for disposing of excess rice acreage will soon expire in certain areas, it is hereby found that compliance with the notice, procedure, and 30-day effective date provisions of section 4 of the Administrative Procedure Act is unnecessary and contrary to the public interest. Therefore, the amendment herein shall become effective upon filing of this document with the Director, Division of the Federal Register.

Section 730.651 (u) is amended by adding the following sentence immediately prior to the last sentence thereof: "If a producer proves to the satisfaction of the county committee that he is unable to dispose of the excess rice acreage by the required date because of weather conditions, an extension of time sufficient to afford a fair and reasonable opportunity for such disposal may be granted by the county committee."

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies sec. 374, 52 Stat. 38, as amended, 68 Stat. 904; 7 U. S. C. 1374)

Done at Washington, D. C., this 22d day of July 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6119; Filed, July 27, 1955; 8:51 a. m.]

[Amdt. 4]

730—RICE

SUBPART—REGULATIONS PERTAINING TO RICE MARKETING QUOTAS FOR THE 1955 CROP

REVISED DEFINITION OF RICE

The amendment herein is issued under the rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, for the purpose of revising the definition of "rice."

Since the only purpose of this amendment is to revise the definition of "rice" and since rice growers and buyers should be notified of this amendment as soon as possible because the 1955 crop of rice will soon be harvested, it is hereby found that compliance with the notice, procedure, and 30-day effective date provisions of section 4 of the Administrative Procedure Act is unnecessary and contrary to the public interest. Therefore, the amendment herein shall become effective upon filing of this document with the Director, Division of the Federal Register.

Section 730.651 (t) is amended to read as follows:

§ 730.651 *Definitions.* * * *

(t) "Rice" as used in the regulations of this subpart means rough rice with a maximum moisture content of 14 percent. Rice with a moisture content in excess of 14 percent will be adjusted to the equivalent of 14 percent moisture content.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375)

Done at Washington, D. C., this 22d day of July 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6121; Filed, July 27, 1955; 8:52 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 811, Amdt. 1]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

REQUIREMENTS AND QUOTAS FOR 1955

Basis and purpose. The purpose of Sugar Regulation 811 is to determine, pursuant to section 201 of the Sugar Act of 1948, as amended (hereinafter called the "act") the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1955, and to establish, pursuant to section 202 of the act, sugar quotas for the supplying areas in terms of short tons of sugar, raw value, equal to the quantity determined by the Secretary of Agriculture to be needed in 1955.

The act requires that the Secretary shall revise the determination of sugar requirements at such times during the calendar year as may be necessary. It now appears that an increase in the estimate of requirements for the calendar year 1955 is necessary. The purpose of this amendment is to make such determination conform to the requirements indicated on the basis of the factors specified in section 201 of the act and give effect to the revised determination.

After providing for quotas in specific amounts for domestic sugar producing areas and the Republic of the Philippines, section 202 of the act provides that the difference between the sum of such quotas and total requirements shall be prorated to foreign countries other than the Republic of the Philippines on the basis of stated percentages. Thus, the statute states specifically how quotas are to be revised when there is a change in sugar requirements. Furthermore, in order to make available the additional sugar authorized by this amendment to meet current demand at stable prices and thereby protect the interests of consumers, it is essential that this amendment be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) is impracticable, unnecessary and contrary to the public interest. The amendments made herein shall become effective when filed with the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (60 Stat. 922, 65 Stat. 318, 7 U. S. C. 1100) and the Administrative Procedure Act (60 Stat. 237) §§ 811.70, 811.72, 811.74 (b) and 811.75 (b) (1) of Sugar Regulation 811, are amended to read as hereinafter set forth.

1. Section 811.70 is amended to read:

§ 811.70 *Sugar requirements, 1955.* The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1955 is hereby determined to be 8,300,000 short tons, raw value.

2. Section 811.72 is amended to read:

§ 811.72 *Basic quotas for other areas.* There are hereby established, pursuant to subsections (b) and (c) of section 202 of the act, for foreign countries for the calendar year 1955 the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Republic of the Philippines	977,000
Cuba	2,763,840
Other foreign countries	115,160

3. Paragraph (b) of § 811.74 is amended to read:

§ 811.74 *Proration of quota for foreign countries other than Cuba and the Republic of the Philippines.* * * *

(b) *Basic prorations.* The 1955 quota for foreign countries other than Cuba and the Republic of the Philippines is hereby prorated pursuant to subsection (c) of section 202 of the act, among such countries as follows:

Country:	*Proration in short tons, raw value*
Dominican Republic	28,698
El Salvador	4,295
Haiti	2,767
Mexico	11,857
Nicaragua	8,105
Peru	53,790
Unspecified countries	5,758
Total	115,160

4. Paragraph (b) (1) of § 811.75 is amended to read:

§ 811.75 *Direct-consumption portion of quotas or prorations.* * * *

(b) *Other areas.* (1) Pursuant to subsections (d), (e) and (h) of section 207 of the act, the quotas established in § 811.72 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area.

Area:	*Direct-consumption sugar, short tons, raw value*
Republic of the Philippines	59,920
Cuba	375,000
Other foreign countries	39,154

Statement of bases and considerations. On December 21, 1954, total sugar quotas of 8,200,000 short tons, raw value, were established for 1955. It was then anticipated that 1955 consumption of sugar would approximate 8,500,000 tons. The allowance of 300,000 tons was made: (1) To compensate for sugar constructively delivered within 1954 quotas for consumption in 1955; (2) to stabilize prices at levels that would maintain the domestic sugar industry; and, (3) to allow for a margin of error in the projection of anticipated consumption.

Consumer demand normally is low in the winter and early spring months and rises to a peak during the summer. It appears that consumers so far this year have maintained unusually low inventories. Distribution in 1955 to date has been higher than to the same date last year when for the full year 8,250,000 tons of sugar were required. As the season of heavy consumption progresses distribution is likely to rise to a seasonal high. Furthermore, raw sugar selling pressures and the pressure to ship such sugar to refineries have diminished now that the harvesting season in the Caribbean has been completed and the market situation has firmed.

Although it is still too early in the year to determine whether the originally estimated level of consumption will be reached or exceeded, it is evident that additional sugar is needed within the quotas. In view of the strengthening demand and the present firm market situation, there is not the need for the same degree of adjustment for price stimulus as during the initial months of the year. Accordingly, the total of the sugar quotas (sugar requirements) is increased by 100,000 tons to 8,300,000 tons.

Quotas. To give effect to the increase in sugar requirements the quotas for Cuba, and Foreign Countries other than

Cuba and the Republic of the Philippines have been increased by the amendments made herein to §§ 811.72, 811.74 (b) and 811.75 (b) (1)

(Sec. 403, 61 Stat. 932, as amended; 7 U. S. C. 1153. Interpret or apply secs. 202, 204, 207, 210; 61 Stat. 924, 925, 927, 928 as amended; 7 U. S. C. 1112, 1114, 1117, 1120)

Done at Washington, D. C., this 22d day of July 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6101; Filed, July 27, 1955; 8:48 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 984—HANDLING OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

ORDER AMENDING THE ORDER, AS AMENDED

§ 984.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations (13 F. R. 4344) which were made in connection with the issuance of the marketing order, and the amendment thereof in July 1954 (19 F. R. 4214) All of said previous findings and determinations are hereby ratified and confirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900; 19 F. R. 57) a public hearing was held at San Francisco, California, on March 30, 1955, upon proposed further amendments to Marketing Agreement No. 105, as amended, and Order No. 84, as amended (19 F. R. 4214) regulating the handling of walnuts grown in California, Oregon, and Washington. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing order, as amended, and as hereby further amended, and all of the terms and conditions hereof, will tend to effectuate the declared policy of the act;

(2) The marketing order, as amended, and as hereby further amended, will be applicable only to persons in the respective classes of industrial and commercial activities specified or necessarily included in the proposals upon which the amendment hearing was held;

(3) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of the walnuts covered thereby.

(b) *Additional findings.* It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (See 5 U. S. C. 1001 et seq.) The next marketing year will begin on August 1, 1955, and, under provisions of the order as hereby further amended handlers may declare shelled walnuts in their prospective carryovers for handling prior to such date and assume the obligations for the current marketing year with respect to such walnuts. Handlers who may wish to make such declarations should be afforded the maximum time in which to complete the necessary actions. The provisions of the order further amending the order, as amended, are well known to handlers of walnuts and compliance with such provisions will not require any advance preparation by interested parties.

(c) *Determinations.* It is hereby determined that: (1) The agreement further amending the marketing agreement, as amended, regulating the handling of walnuts grown in California, Oregon, and Washington, which included the amendments upon which the aforesaid public hearing was held, has been executed by handlers (excluding cooperative associations of producers which are not engaged in processing, distributing, or shipping walnuts covered by this order amending the order, as amended) who handled not less than two-thirds of the volume of such walnuts covered by this amended order;

(2) The issuance of this order further amending the order, as amended, is favored by producers who, during the representative period (August 1, 1954 through May 31, 1955) produced for market at least two-thirds of the volume of walnuts produced for market during said representative period within the States of California, Oregon, and Washington.

It is, therefore, ordered. That, on and after the effective date hereof, all handling of walnuts grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

1. Delete the provisions of § 984.11 and substitute therefor the following:

§ 984.11 *To handle.* "To handle" means to sell, consign, transport or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, unshelled or shelled, in the current of commerce either within the area of production, or from such area to any point outside thereof, or within the area of production to purchase directly from a grower for use in commercial manufacturing. Except as provided in § 984.73, the term "to handle" shall not include sales and deliveries within the area of production, by growers to handlers or manufacturers, or by handlers to packers or shellers for packing, shelling, further processing, or handling, and shall not include the authorized disposition of merchantable restricted or surplus walnuts.

2. Delete the provisions of § 984.18 and substitute therefor the following:

§ 984.18 *Sound kernel.* "Sound kernel" means a kernel or portion of kernel which will not pass through a round opening one-eighth inch in diameter and which otherwise meets the requirements of U. S. Commercial Grade as set forth in the United States Standards for Shelled English Walnuts (19 F R. 817) The lot tolerances provided in such standards shall not apply to individual kernels or portions thereof. This definition may be revised or amended by the Secretary, upon recommendation of the Control Board.

3. Delete the last three sentences of § 984.34 and substitute therefor the following: "Nominations received in the foregoing manner by the Control Board shall be reported to the Secretary on or before June 15 of 1955 and each second year thereafter, together with a certificate of all necessary tonnage data and other information deemed by the Control Board to be pertinent or requested by the Secretary. If the Control Board fails to report nominations to the Secretary in the manner hereinbefore specified on or before June 15 of any nomination year, the Secretary may select the member or alternate without nomination. If nominations for the tenth member or alternate are not submitted on or before August 1 of any such year, the Secretary may select such member or alternate without nomination."

4. Delete the provisions of § 984.49 (a) and substitute the following:

(a) Except as otherwise provided in § 984.81, whenever a regulation has been established by the Secretary under the provisions of § 984.48, each handler, before or upon handling any unshelled walnuts, shall have withheld from handling a quantity of merchantable walnuts equal to the merchantable allocation percentage, by weight, of such quantity handled or certified for handling by him: *Provided,* That this provision shall not apply to any lot of merchantable walnuts which is sold or delivered within the area of production to a handler for subsequent handling.

5. Delete the provisions of § 984.54 (a) and substitute the following:

(a) Except as otherwise provided in § 984.81, whenever a regulation has been established for a marketing year by the Secretary under the provisions of § 984.53, each handler, before or upon handling any walnuts, unshelled or shelled, shall have withheld from handling a quantity of walnuts having a sound kernel weight equal to the diversion percentage of the sound kernel weight of all unshelled walnuts handled or certified for handling, and the actual net weight of all shelled walnuts handled or declared for handling by him: *Provided,* That this provision shall not apply to any lot of walnuts which is sold or

delivered within the area of production to a handler for subsequent handling.

6. Redesignate the paragraphs presently lettered (b) and (c) of § 984.54 as paragraphs (c) and (d) respectively, and insert a new paragraph lettered (b) to read as follows:

(b) Any handler may, at any time prior to the end of the marketing year, satisfy his surplus obligation with respect to shelled walnuts by declaring to the Control Board his intention to handle a specified quantity of shelled walnuts which he then owns and has on hand and by withholding a quantity of walnuts having a sound kernel weight equal to the diversion percentage of the actual net weight of shelled walnuts so declared for handling. Such declaration and withholding may be canceled by the handler prior to the end of the marketing year.

7. Delete the provisions of redesignated paragraph (c) of § 984.54 and substitute therefor the following:

(c) Walnuts withheld as surplus shall be set aside and thereafter held for the account of the Control Board at the expense of the handler and, from the date of withholding, at all times thereafter shall be held by the handler, available for inspection by the Control Board or its agents. Such walnuts shall be stored in such manner as to maintain them in the same condition as when certified for surplus, except for loss through fire, acts of God, acts of war, riot, or other conditions beyond the handler's control. Upon demand of the Control Board, they shall be delivered to the Control Board f. o. b. rail car or truck at handler's warehouse or point of storage. All such surplus walnuts so withheld by the handler shall be at the time of withholding placed by the handler, at his own expense, in suitable containers, which may be prescribed by the Control Board, and identified by appropriate seals or stamps and tags to be furnished by the Control Board and to be affixed to the containers by the handler under the direction and supervision of the Control Board or its designated inspectors.

8. Delete the provisions of § 984.55 (b) and substitute therefor the following:

(b) *For shelled walnuts handled.* All shelled walnuts handled or declared for handling by any handler during a marketing year shall be included in the total sound kernel weight for such handler at the actual net weight thereof, as shown by the reports submitted by him pursuant to § 984.71, or as shown by such handler's records.

9. Delete the provisions of § 984.61 (a) (1) (v) and substitute therefor the following:

(v) Pursuant to the provisions of § 984.74, report to the Control Board the receipt of any lot of merchantable restricted walnuts; and

10. Delete the provisions of § 984.61 (b) and substitute therefor the following:

(b) *By export.* Sale or shipment of merchantable restricted walnuts, withheld pursuant to § 984.49, for export to destinations outside (1) the continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone and, (2) Canada or Cuba when included in the trade demand estimate, shall be made only by the Control Board. The Control Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory outlets. Sales for export shall be made by the Control Board only on execution of an agreement to prevent reimportation into the United States; and, in the case of export to Canada or Mexico, such walnuts shall be sold only on the basis of a delivered price, duty paid. A handler, at his request, shall be authorized to act as agent of the Control Board upon such terms and conditions as the Control Board may specify in negotiating export sales from merchantable restricted walnuts withheld by him, or a handler may be so authorized with respect to merchantable restricted walnuts withheld by others; and when so acting, shall be entitled to receive a commission of 5 percent of the export sales price, f. o. b. area of production. The proceeds of any such export sales by a handler, after deducting all expenses actually and necessarily incurred, shall be paid to the handler withholding the walnuts so sold by the Control Board.

11. Delete the provisions of § 984.62 (a) and substitute therefor the following:

(a) *By export.* Sale or shipment of surplus walnuts, withheld pursuant to § 984.54, for export to destinations outside (1) the continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone and, (2) Canada or Cuba when included in the trade demand estimate, shall be made only by the Control Board and shall be governed by the provisions of § 984.61 (b) The sound kernel weight of merchantable restricted walnuts and shelled surplus walnuts so exported shall be credited against the surplus obligation of the exporting handler who is acting as agent for the Control Board, unless such exporting handler shall advise the Control Board, on or before July 31, of the quantities and lots of such exported walnuts that he does not wish to have so credited. At any time on or before July 31, upon written request of any handler who is an authorized export agent of the Control Board, the Board shall transfer any part or all of such handler's export credits in the Board's accounts to such other handler as he may designate.

12. Delete the present provisions of § 984.62 (b) (2) and substitute therefor the following:

(2) The Control Board shall not accept delivery of any surplus walnuts for pooling and disposition prior to making a determination, in the period December 1 to December 15 of any marketing year, as to the percentage of surplus walnuts withheld which may be accepted for pooling and disposition prior to February 15 of the same marketing year. On or after February 15 of any marketing year, the Control Board shall not accept for pooling and disposition any surplus walnuts in excess of a handler's accumulated surplus obligation.

13. Delete the provisions of § 984.66 (a) and (b) and substitute therefor the following:

(a) *Establishment of assessment rates by the Secretary.* The Secretary shall fix separate rates of assessments for each marketing year to be paid by each handler with respect to merchantable walnuts handled or certified for handling and with respect to shelled walnuts handled or declared for handling. At any time during or after a marketing year, the Secretary may increase either or both of these rates of assessment to apply respectively to all merchantable walnuts handled or certified for handling during the marketing year or to all shelled walnuts handled or declared for handling during such year to secure sufficient funds to cover the expenses authorized by § 984.65, or any later finding by the Secretary relative to the expenses of the Control Board, and such additional assessments shall be paid to the Control Board upon demand. The Control Board shall include with its recommendation of expenses pursuant to § 984.65, its recommendation in respect to the separate assessment rates to be fixed by the Secretary.

(b) *Requirement for payment.* Each handler of merchantable walnuts and shelled walnuts shall, with respect to the merchantable walnuts handled or certified for handling by him and the shelled walnuts handled or declared for handling by him, pay to the Control Board, upon demand, his pro rata share of the expenses which the Secretary finds are reasonable and are likely to be incurred during each marketing year. Each handler's share of such expenses shall be: For merchantable walnuts handled or certified for handling during the applicable marketing year, the ratio between the total quantity of merchantable walnuts handled or certified for handling by him and the total quantity of such walnuts handled or certified for handling by all handlers during such marketing year; for shelled walnuts handled or declared for handling the ratio of the weight of shelled walnuts handled or declared for handling by him during the applicable marketing year and the weight of all shelled walnuts handled or declared for handling during such marketing year by all handlers.

14. Delete the provisions of § 984.68 preceding paragraph (a) and substitute therefor the following:

§ 984.68 *Reports of handler carryovers.* Each handler, on or before August 15 and January 31 of each marketing year, shall file with the Control Board a written report of:

15. Delete the provisions of § 984.73 and substitute therefor the following:

§ 984.73 *Reports of interstate handling within the area of production.* Within the area of production, any shipment of walnuts from California to Oregon or Washington, from Oregon to Washington, and from Oregon or Washington to California, for sale or delivery to a handler shall be reported to the

Control Board by the shipper at time of shipment and by the handler immediately upon receipt of such shipment. The report by the shipper shall show the date of shipment, the quantities shipped, whether orchard run, merchantable, or shelled, and the identity of the consignee. The report by the consignee shall show the date of receipt of the walnuts so shipped, the quantities and categories of the walnuts so received, the identity of the shipper, and shall include a certification to the United States Department of Agriculture and to the Control Board that the walnuts so received will be handled in accordance with regulations established pursuant to the provisions of § 984.48 or § 984.53.

16. Delete the provisions of § 984.74.

17. Renumber §§ 984.75, 984.76, 984.77 and 984.78, as §§ 984.74, 984.75, 984.76 and 984.77, respectively.

18. Delete the provisions of § 984.82 and substitute therefor the following:

§ 984.82 *Revision of control percentages.* (a) The Secretary, on request of the Control Board made at any time prior to February 15 of any marketing year (or if the Control Board shall fail so to request, on request within like time of two or more handlers who have handled during the immediately preceding marketing year at least 10 percent of the total tonnage of merchantable walnuts or of shelled walnuts, respectively, handled by all handlers during such marketing year) and after a finding of fact, based on such revised and current information as may be pertinent, that the merchantable walnuts or shelled walnuts, respectively, available for sale will not be sufficient to supply the respective trade demand therefor and provide an adequate carryover, may decrease the merchantable restricted percentage or the surplus percentage, respectively, to conform to such finding.

(b) The Control Board prior to February 15 of each year for which a control percentage has been established, shall review on the basis of actual production in each of the two districts the control percentages established for that year, and shall recommend to the Secretary on or before that date such changes of the control percentages established for each district as are necessary in order to give reasonable effect, on the basis of such actual production, to the standards prescribed in §§ 984.47 (b) and 984.53 (b) The Secretary, on such recommendation by the Control Board (or if the Control Board shall fail to make a recommendation then on request not later than February 15 of two or more handlers who have handled during the immediately preceding marketing year at least 10 percent of the total tonnage of merchantable walnuts or of shelled walnuts, respectively, handled by all handlers in their district during such marketing year) and after a finding of fact that the merchantable restricted or surplus percentage established for that marketing year as to walnuts produced in either district is too high for that district in relation to said standards, the Secretary shall decrease accordingly such percentage for that district: *Provided, however,* That in no event shall the merchantable restricted or surplus percentage of one district, as thus changed, be less than one-half of such percentage as established for the other district.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 22d of July 1955, to become effective upon the date of publication of this document in the FEDERAL REGISTER.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-6100; Filed, July 27, 1955; 8:48 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 40-17]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

APPLICABILITY OF CONTROL OF ENGINE ROTATION AND INSTRUMENTATION REQUIREMENTS TO TURBINE-POWERED AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 25th day of July 1955.

The current engine rotation requirements and the engine instrument requirements prescribed in Part 40 of the Civil Air Regulations are not entirely appropriate for turbine-powered airplanes for the reason that these requirements have been developed on the basis of experience with reciprocating engine airplanes, which until the present time have been the only airplanes operated under Part 40. Since it was evident that airplanes with turbine engines would be introduced into air transportation in the immediate future, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 4593) and circulated to the industry in Civil-Air Regulations Draft Release No. 55-16 on June 23, 1955, which proposed to revise the engine rotation and engine instrument requirements of Part 40 so as to render them appropriate to turbine-powered airplanes. Comment received in response to Draft Release No. 55-16 expressed objection to the authority proposed to be given the Administrator in establishing engine rotation and instrument requirements for turbine-powered airplanes. Such a policy, however, has been used in the airworthiness certification of these airplanes and the Board believes it is desirable to continue this policy with respect to the operating rules discussed herein until detailed requirements based upon operational experience can be prescribed.

Currently effective § 40.150 of Part 40 requires that all airplanes be provided with means for individually stopping and restarting the rotation of any engine in flight. However, on the basis of current information, it does not appear that the extremely slow rotation of feathered propellers of some turbo-propeller airplanes will jeopardize safety. On the contrary, to stop the propeller completely will, in some instances, either involve additional hazards or require unduly burdensome modifications. Similarly, the rotation of a turbine engine, following engine failure, may not be as hazardous as would be stopping the engine completely in flight. This amendment, therefore, requires means for completely stopping rotation on turbine engine installations only if the Administrator finds that rotation could jeopardize the safety of the airplane.

Currently effective § 40.172 of Part 40 requires the installation of specified engine instruments. Although the required instruments can be installed on reciprocating engine airplanes, it is clear that some are not appropriate for turbine-powered airplanes. Furthermore, it is recognized that turbine engines may require instrumentation different from that for which provision is currently made in § 40.172. In view of the limited experience in air carrier operations with such engines, the Board believes it is desirable that a determination as to what different instrumentation may be required should, for the present, be made by the Administrator on a basis of equivalent safety. Accordingly, this amendment gives the Administrator such authority with respect to turbine engine instrumentation.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. Since this amendment relieves a restriction and imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 40 of the Civil Air Regulations (14 CFR Part 40, as amended) as follows effective July 25, 1955:

1. By amending § 40.150 to read as follows:

§ 40.150 *Control of engine rotation.* All airplanes shall be provided with means for individually stopping and restarting the rotation of any engine in flight, except that for turbine engine installations means for completely stopping the rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the airplane.

2. By amending the introductory sentence of § 40.172 to read as follows:

§ 40.172 *Engine instruments for all operations.* The following engine instruments are required for all operations, except that the Administrator may permit or require different instrumentation for turbine-powered airplanes to provide equivalent safety:

(Secs. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 55-6124; Filed, July 27, 1955; 8:53 a. m.]

[Civil Air Regs., Amdt. 41-3]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

APPLICABILITY OF CONTROL OF ENGINE ROTATION AND INSTRUMENTATION AND EQUIPMENT REQUIREMENTS TO TURBINE-POWERED AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 25th day of July 1955.

The current engine rotation requirements and the engine instrument and equipment requirements prescribed in Part 41 of the Civil Air Regulations are not entirely appropriate for turbine-powered airplanes for the reason that these requirements have been developed on the basis of experience with reciprocating engine airplanes, which until the present time have been the only airplanes operated under Part 41. Since it was evident that airplanes with turbine engines would be introduced into air transportation in the immediate future, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F R. 4593) and circulated to the industry in Civil Air Regulations Draft Release No. 55-16 on June 23, 1955, which proposed to revise the engine rotation and engine instrument requirements of Part 41 so as to render them appropriate to turbine-powered airplanes. Comment received in response to Draft Release No. 55-16 expressed objection to the authority proposed to be given the Administrator in establishing engine rotation and instrument and equipment requirements for turbine-powered airplanes. Such a policy however, has been used in the airworthiness certification of these airplanes and the Board believes it is desirable to continue this policy with respect to the operating rules discussed herein until detailed requirements based upon operational experience can be prescribed.

Currently effective § 41.20 (d) of Part 41 requires that multiengine airplanes be so equipped that engine rotation may be promptly stopped during flight. However, on the basis of current information, it does not appear that the extremely slow rotation of feathered propellers of some turbo-propeller airplanes will jeopardize safety. On the contrary, to stop the propeller completely will, in some instances, either involve additional hazards or require unduly burdensome modifications. Similarly, the rotation of a turbine engine, following engine failure, may not be as hazardous as would be stopping the engine completely in flight. This amendment, therefore, requires means for completely stopping rotation on turbine engine installations only if the Administrator finds that rotation could jeopardize the safety of the airplane.

Currently effective § 41.25 of Part 41 requires the installation of specified engine instruments and equipment. Although the required instruments and equipment can be installed on reciprocating engine airplanes, it is clear that some are not appropriate for turbine-powered airplanes. Furthermore, it is recognized that turbine engines may require instrumentation or equipment different from that for which provision is currently made in § 41.25. In view of the limited experience in air carrier operations with such engines, the Board believes it is desirable that a determination, as to what different instrumentation or equipment may be required should, for the present, be made by the Administrator on a basis of equivalent safety. Accordingly, this amendment gives the Administrator such authority with respect to turbine engine instrumentation and equipment.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. Since this amendment relieves a restriction and imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 41 of the Civil Air Regulations (14 CFR Part 41, as amended) as follows effective July 25, 1955:

1. By amending § 41.20 (d) to read as follows:

§ 41.20 *General.* * * *

(d) Multiengine airplanes shall be so equipped that engine rotation may be promptly stopped during flight, except that for turbine engine installations means for completely stopping the rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the airplane.

2. By amending § 41.25 by amending the sentence immediately preceding the itemized list to read as follows:

§ 41.25 *Instruments and equipment required for continuance of flight.* * * * The items listed in this section are required for all types of operation unless otherwise specified, except that the Administrator may permit or require different instrumentation or equipment for turbine-powered aircraft to provide equivalent safety.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 55-6125; Filed, July 27, 1955; 8:53 a. m.]

[Civil Air Reg., Amdt. 42-4]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

APPLICABILITY OF CONTROL OF ENGINE ROTATION AND INSTRUMENTATION AND EQUIPMENT REQUIREMENTS TO TURBINE-POWERED AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 25th day of July 1955.

The current engine rotation requirements and the engine instrument and equipment requirements prescribed in Part 42 of the Civil Air Regulations are not entirely appropriate for turbine-powered airplanes for the reason that these requirements have been developed on the basis of experience with reciprocating engine airplanes, which until the present time have been the only airplanes operated under Part 42. Since it was evident that airplanes with turbine engines would be introduced into air transportation in the immediate future, a notice of proposed rule making was published in the FEDERAL REGISTER (20 FR 4593) and circulated to the industry in Civil Air Regulations Draft Release No. 55-16 on June 23, 1955, which proposed to revise the engine rotation and engine instrument requirements of Part 42 so as to render them appropriate to turbine-powered airplanes. Comment received in response to Draft Release No. 55-16 expressed objection to the authority proposed to be given the Administrator in establishing engine rotation and instrument and equipment requirements for turbine-powered airplanes. Such a policy, however, has been used in the airworthiness certification of these airplanes and the Board believes it is desirable to continue this policy with respect to the operating rules discussed herein until detailed requirements based upon operational experience can be prescribed.

Currently effective § 42.13 of Part 42 requires that multiengine aircraft having any engine rated at more than 480 h. p. for maximum continuous operation shall be so equipped that the rotation of each engine may be stopped promptly in flight. However, on the basis of current information, it does not appear that the extremely slow rotation of feathered propellers of some turbo-propeller airplanes will jeopardize safety. On the contrary, to stop the propeller completely will, in some instances, either involve additional hazards or require unduly burdensome modifications. Similarly, the rotation of a turbine engine, following engine failure, may not be as hazardous as would be stopping the engine completely in flight. This amendment, therefore, requires means for completely stopping rotation on turbine engine installations only if the Administrator finds that rotation could jeopardize the safety of the airplane.

Currently effective § 42.21 of Part 42 requires the installation of specified engine instruments and equipment. Although the required instruments and equipment can be installed on reciprocating engine airplanes, it is clear that some are not appropriate for turbine-powered airplanes. Furthermore, it is recognized that turbine engines may require instrumentation or equipment different from that for which provision is currently made in § 42.21. In view of the limited experience in air carrier operations with such engines, the Board believes it is desirable that a determination as to what different instrumentation or equipment may be required should, for the present, be made by the Administrator on a basis of equivalent safety. Accordingly, this amendment gives the Administrator such authority with respect to turbine engine instrumentation and equipment.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. Since this amendment relieves a restriction and imposes no additional burden on any person it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) as follows, effective July 25, 1955:

1. By amending § 42.13 to read as follows:

§ 42.13 *Engine rotation.* Multiengine aircraft having any engine rated at more than 480 h. p. for maximum continuous operation shall be so equipped that the rotation of each such engine can be stopped promptly in flight, except that for turbine engine installations means for completely stopping the rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the aircraft.

2. By amending the introductory sentence of § 42.21 to read as follows:

§ 42.21 *Basic required instruments and equipment for aircraft.* The following instruments and equipment acceptable to the Administrator for the type of operations specified shall be installed and in serviceable condition in all aircraft, except that the Administrator may permit or require different instrumentation or equipment for turbine-powered aircraft to provide equivalent safety.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 55-6126; Filed, July 27, 1955; 8:53 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PESTICIDE CHEMICALS; ADDITIONAL EXTENDED DATES ON WHICH STATUTE SHALL BECOME FULLY EFFECTIVE; DENIAL OF REQUESTS FOR EXTENISONS

In compliance with the procedure set out in § 3.40 *Pesticide chemicals; date on which statute becomes fully effective,* published in the FEDERAL REGISTER of June 10, 1955 (20 F. R. 4085) requests for extension of the date when the statute (68 Stat. 511 et seq., 21 U. S. C. 342, 346a) shall become fully effective have been received for a number of pesticide chemicals in addition to those for which extensions were granted by § 3.41, published in the FEDERAL REGISTER on July 20, 1955 (20 F. R. 5160) Now, therefore, in exercise of the authority vested in the Secretary of Health Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 402 (a) (2) 408; 68 Stat. 511, 517 (Ch. 559, secs. 2, 5) 21 U. S. C. 342 (a) (2) and note 1 under sec. 342, 346a) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1996), the following statement of policy is issued:

§ 3.42 *Pesticide chemicals; additional extended dates on which statute shall become fully effective; denial of requests for extensions.* (a) Conditions exist which necessitate the following extensions. The amendment in clause (2) of section 402 (a) of the Federal Food, Drug, and Cosmetic Act shall become effective on the dates specified for the following pesticide chemicals:

(1) Effective date October 31, 1955:
Alkyl dimethyl benzyl ammonium chloride: On apples.
Allethrin: On livestock.
Chloro IPC: Preemergence use on spinach.
Dimite: On fruits and vegetables.
Ethylene dichloride: On citrus and strawberries.
Ethylene oxide: On spices.
Piperonyl butoxide: On apples, citrus, livestock, pears, tomatoes.
Pyrethrins: On apples, citrus, grains (stored), livestock, pears, tomatoes.
Sodium dimethyldithiocarbamate: On cantaloups.
Trichloroethane: On citrus, strawberries.
(2) Effective date January 22, 1956:
Diphenyl: On citrus.

(b) Extension is not granted for the following indicated uses of the listed pesticide chemicals. Conditions do not exist that necessitate extension for these uses.

Hexamethylenetetramine: On citrus.
Methoxychlor: In milk.
Rotenone: Unspecified uses.
Sodium *O*-phenylphenate: On citrus.

(c) The extensions prescribed in paragraph (a) of this section apply only to the extent that tolerances or exemptions under section 408 of the Federal Food, Drug, and Cosmetic Act shall not have been established prior to the effective dates as extended.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interprets or applies secs. 402, 408, 68 Stat. 511, 517; 21 U. S. C. 342, 346a)

Dated: July 21, 1955.

[SEAL] GEO. P LARRICK, *Commissioner of Food and Drugs.*

[F. R. Doc. 55-6107; Filed, July 27, 1955; 8:50 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 655—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

MINIMUM WAGE ORDER; CORRECTION

On May 3, 1951, the Administrator of the Wage and Hour Division of the United States Department of Labor approved the recommendations of Special Industry Committee No. 8 for the Fur Garment Division, among others, of the Needlework and Fabricated Textile Products Industry in Puerto Rico and issued a Wage Order therefor, which was published in the May 5, 1951, issue of the FEDERAL REGISTER (16 F. R. 4101)

On December 8, 1953, the Administrator appointed Special Industry Committee No. 15 to investigate conditions in, and to recommend minimum wages for, the Needlework and Fabricated Textile Products Industry in Puerto Rico, among others. The Committee, in its report to the Administrator, made no separate recommendations for the Fur Garment Division and, in effect, included all functions and operations of this Division within the definition recommended for the General Division. The Office of the Administrator disapproved the Committee's recommendations for the General Division and issued a Minimum Wage Order, published in the FEDERAL REGISTER on May 7, 1955 (20 F. R. 3107) amending and editorially revising Regulations, Part 655 (29 CFR, Part 655) for the Needlework and Fabricated Textile Products Industry in Puerto Rico. However, while the Wage Order of May 5, 1951, for the Fur Garment Division was thus unaffected and has continued in full force and effect, the Order of May 7, 1955, inadvertently omitted this Division from those portions of the Part which were editorially revised.

Thus it is necessary to correct Regulations, Part 655 (29 CFR Part 655) as amended, editorially revised and published in the May 7, 1955, issue of the FEDERAL REGISTER (20 F. R. 3107), by adding the following minimum wage rate and definition of the Fur Garment Division:

1. To § 655.2, add paragraph (s) to read as follows:

(s) Wages at a rate of not less than 45 cents per hour shall be paid under Section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the fur garment division of the needlework and fabricated textile products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

2. To § 655.4 (b) add subparagraph (19) to read as follows:

(19) *Fur garment division.* The term fur garment division shall mean the manufacture of fur coats and other fur garments, accessories, and trimmings.

(Sec. 8, 63 Stat. 915; 29 U. S. C. 203)

Signed at Washington, D. C., this 22d day of July 1955.

STUART ROTHMAN, *Solicitor of Labor*

[F. R. Doc. 55-6103; Filed, July 27, 1955; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter C—Personnel

PART 723—BOARD FOR THE CORRECTION OF NAVAL RECORDS

REVIEW OF APPLICATION FOR CORRECTION; GENERAL

1. Section 723.3 (e) is revised to read, as follows:

(e) *Review of application.* Each application and the available military or

naval records pertinent to the corrective action requested will be reviewed to determine whether to authorize a hearing or to deny the application without a hearing. The Board will make this determination in all cases except those in which the application has been denied administratively for the reason that the applicant has not exhausted all other effective administrative remedies available to him. In connection with any application which it considers, the Board may recommend to the Secretary that the records be corrected, as requested by the applicant, without a hearing. The Board may deny an application if it determines that insufficient evidence has been presented to indicate probable material error or injustice, that the applicant has not exhausted other effective administrative or legal remedies available to him, or that effective relief cannot be granted. The Board will not deny an application on the sole ground that the record or records involved were made by or by direction of the President or the Secretary in connection with proceedings other than proceedings of a board for correction of military or naval records. If the application is denied, the applicant will be advised of the denial and that he is privileged to submit new and material evidence for consideration.

2. Section 723.4 (a) is revised to read, as follows:

§ 723.4 *General; notice; counsel; witnesses; access to records*—(a) *General.* In each case in which a hearing is authorized, the applicant will be entitled to appear before the Board either in person or by counsel of his own selection or in person with counsel.

(Sec. 207, 60 Stat. 837, as amended; 5 U. S. C. 191a)

By direction of the Secretary of the Navy.

Dated: July 20, 1955.

S. B. D. WOOD,
Captain, U S. Navy,
Acting Judge Advocate General.

[F. R. Doc. 55-6083; Filed, July 27, 1955; 8:45 a. m.]

PART 742—ACQUISITION OF REAL ESTATE

LAND ACQUIRED SUBSEQUENT TO JULY 27, 1954

A. The regulation entitled: "Reimbursement to Owners and Tenants of Land Acquired by the Department of the Navy Pursuant to Public Law 155, 82d Congress, 1st Session" (§§ 742.1 to 742.8), is hereby amended as follows:

1. Change the period at the end of the proviso in the next to last sentence of § 742.1 to a semicolon and add immediately thereafter the following: *"Provided, further* That with respect to land acquired subsequent to July 27, 1954, reimbursement is restricted to those owners and tenants who used such land for residential or agricultural purposes."

2. Section 742.2 (a) is amended to read as follows:

(a) *The act.* Public Law 155, 82d Congress, approved September 28, 1951, as amended by Public Law 534, 83d Congress, 2d Session, approved July 27, 1954.

3. Section 742.7 is amended by adding a new undesignated paragraph at the end thereof, reading as follows:

Land acquired subsequent to July 27, 1954. With respect to any land acquired subsequent to July 27, 1954, reimbursement will be made only to those owners or tenants who used such land for residential or agricultural purposes.

B. The regulation entitled "Reimbursement to Owners and Tenants of Land Acquired by the Department of the Navy Pursuant to Public Law 534, 82d Congress, 2d Session" (§§ 742.9 to 742.16) is hereby amended as follows:

1. Change the period at the end of the proviso in § 742.9 to a semicolon and add immediately thereafter the following: *"Provided, further* That with respect to land acquired subsequent to July 27, 1954, reimbursement is restricted to those owners and tenants who used such land for residential or agricultural purposes."

2. Section 742.10 (a) is amended to read as follows:

(a) *The act.* Public Law 534, 82d Congress, approved July 14, 1952, as amended by Public Law 534, 83d Congress, 2d Session, approved July 27, 1954.

3. Section 742.15 is amended by adding a new undesignated paragraph at the end thereof, reading as follows:

Land acquired subsequent to July 27, 1954: With respect to any land acquired subsequent to July 27, 1954, reimbursement will be made only to those owners or tenants who used such land for residential or agricultural purposes.

(65 Stat. 363)

By direction of the Secretary of the Navy.

S. B. D. WOOD,
Captain, U. S. Navy, Acting Judge Advocate General of the Navy.

JULY 20, 1955.

[F. R. Doc. 55-6084; Filed, July 27, 1955; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 10, 30]

ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC., FOREIGN TRADE ZONES

WITHDRAWAL OF SUPPLIES FOR FISHING VESSELS

Notice is hereby given that, pursuant to authority contained in sections 161 and 251 of the Revised Statutes, and sections 309 (a) as amended, and 624 of the Tariff Act of 1930 (5 U. S. C. 22, 19 U. S. C. 66, 1309 (a) 1624) it is proposed to amend § 10.59, Customs Regulations (19 CFR 10.59) to describe more clearly vessels employed in the fisheries which are entitled to withdraw articles free of duty and internal-revenue tax under section 309 (a) of the tariff act, as amended, and to prescribe additional conditions governing the granting of exemptions from duty and internal-revenue tax under section 309 (a) on distilled spirits (including alcohol) wines, and beer withdrawn from a customs bonded warehouse, from continuous customs custody elsewhere than a bonded warehouse, or from a foreign trade zone, and laden on such vessels.

It is also proposed to amend § 30.16, Customs Regulations (19 CFR 30.16) to provide that the pertinent provisions of sections 10.59 to 10.65, inclusive, Customs Regulations (19 CFR 10.59 to 10.65) shall be applicable to any article laden in a foreign trade zone on a vessel or aircraft for which exemption from duty and internal-revenue tax is claimed under section 309 or 317, Tariff Act of 1930, as amended (19 U. S. C. 1309, 1317), or section 4222 of the Internal Revenue Code of 1954.

The terms of the proposed amendment, in tentative form, are as follows:

1. Section 10.59 of the Customs Regulations is amended by deleting the parenthetical matter at the end of paragraph (c) and by the insertion of a new paragraph (d) reading as follows:

(d) Vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol) wines, and beer conditionally free under section 309 of the Tariff Act of 1930, as amended, if the collector is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. Such withdrawal shall be permitted only after the approval by the collector of a special written application, in duplicate, on customs Form 5125, of the master of the vessel. Such application shall be filed with customs Form 7506 or 7512,[57] as the case may be. The original application, after approval, shall be stamped with the withdrawal number and date thereof and shall be returned to the vessel's master for use as prescribed below. Approval of each such application shall be

[57] Exemption from internal-revenue tax on distilled spirits, alcohol, wines, and beer removed from any internal-revenue bonded warehouse, industrial alcohol premises, bonded wine cellar, or brewery; and drawback on taxpaid distilled spirits or wines removed from an export storage room, or on taxpaid beer removed from a brewery (or place of storage elsewhere), for use as supplies on vessels under section 309, Tariff Act of 1930, as amended, is governed by regulations of the Internal Revenue Service.

subject to the condition that the original shall be presented by the vessel's master to the collector within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the articles until the collector is satisfied that they have been consumed and takes up the authorization. The approval shall be subject to the further condition that any such withdrawn article remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. Failure to comply with the conditions upon which a withdrawal application is approved will subject the total quantity of each lot of withdrawn articles to the assessment and collection of any applicable duty or tax.

(Sec. 309 (a), 46 Stat. 690, as amended; 19 U. S. C. 1309 (a))

2. Section 30.16 (b) of the Customs Regulations is amended by deleting the period at the end of the first sentence and adding "and, in addition, the pertinent provisions of §§ 10.59 to 10.65 of this chapter shall also apply as though the article were being withdrawn in customs territory from continuous customs custody elsewhere than in a bonded warehouse for such lading."

This notice is published pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003) Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: July 22, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 55-6103; Filed, July 27, 1955; 8:49 a. m.]

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SALE OR EXCHANGE OF RESIDENCE

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Tresaury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

The following regulations are hereby prescribed under section 1034 of the Internal Revenue Code of 1954.

§ 1.1034 *Statutory provisions; common nontaxable exchanges; sale or exchange of residence.*

SEC. 1034 *Sale or exchange of residence*—(a) *Nonrecognition of gain.* If property (in this section called "old residence") used by the taxpayer as his principal residence is sold by him after December 31, 1953, and, within a period beginning 1 year before the date of such sale and ending 1 year after such date, property (in this section called "new residence") is purchased and used by the taxpayer as his principal residence, gain (if any) from such sale shall be recognized only to the extent that the taxpayer's adjusted sales price (as defined in subsection (b)) of the old residence exceeds the taxpayer's cost of purchasing the new residence.

(b) *Adjusted sale price defined*—(1) *In general.* For purposes of this section, the term "adjusted sales price" means the amount realized, reduced by the aggregate of the expenses for work performed on the old residence in order to assist in its sale.

(2) *Limitations.* The reduction provided in paragraph (1) applies only to expenses—

(A) For work performed during the 90-day period ending on the day on which the contract to sell the old residence is entered into;

(B) Which are paid on or before the 30th day after the date of the sale of the old residence; and

(C) Which are—

(i) Not allowable as deductions in computing taxable income under section 63 (a) (defining taxable income), and

(ii) Not taken into account in computing the amount realized from the sale of the old residence.

(3) *Effective date.* The reduction provided in paragraph (1) applies to expenses for work performed in any taxable year (whether beginning before, on, or after January 1, 1954), but only in the case of a sale or exchange of an old residence which occurs after December 31, 1953.

(c) *Rules for application of section.* For purposes of this section:

(1) An exchange by the taxpayer of his residence for other property shall be treated as a sale of such residence, and the acquisition of a residence on the exchange of property shall be treated as a purchase of such residence.

(2) A residence any part of which was constructed or reconstructed by the taxpayer shall be treated as purchased by the taxpayer. In determining the taxpayer's cost of purchasing a residence, there shall be included only so much of his cost as is attributable to the acquisition, construction, reconstruction, and improvements made which are properly chargeable to capital account, during the period specified in subsection (a).

(3) If a residence is purchased by the taxpayer before the date of his sale of the old residence, the purchased residence shall not be treated as his new residence if sold or otherwise disposed of by him before the date of the sale of the old residence.

(4) If the taxpayer, during the period described in subsection (a), purchases more than one residence which is used by him as his principal residence at some time within 1 year after the date of the sale of the old residence, only the last of such residences so used by him after the date of such sale shall constitute the new residence.

(5) In the case of a new residence the construction of which was commenced by the taxpayer before the expiration of one year after the date of the sale of the old residence, the period specified in subsection (a), and the 1 year referred to in paragraph (4) of this subsection, shall be treated as including a period of 18 months beginning with the date of the sale of the old residence.

(d) *Limitation.* Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 1 year before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a) or section 112 (n) of the Internal Revenue Code of 1939.

(e) *Basis of new residence.* Where the purchase of a new residence results, under subsection (a) or under section 112 (n) of the Internal Revenue Code of 1939, in the nonrecognition of gain on the sale of an old residence, in determining the adjusted basis of the new residence as of any time following the sale of the old residence, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain not so recognized on the sale of the old residence. For this purpose, the amount of the gain not so recognized on the sale of the old residence includes only so much of such gain as is not recognized by reason of the cost, up to such time, of purchasing the new residence.

(f) *Tenant-stockholder in a cooperative housing corporation.* For purposes of this section, section 1016 (relating to adjustments to basis), and section 1223 (relating to holding period), references to property used by the taxpayer as his principal residence, and references to the residence of a taxpayer, shall include stock held by a tenant-stockholder (as defined in section 216, relating to deduction for amounts representing taxes and interest paid to a cooperative housing corporation) in a cooperative housing corporation (as defined in such section) if—

(1) In the case of stock sold, the house or apartment which the taxpayer was entitled to occupy as such stockholder was used by him as his principal residence, and

(2) In the case of stock purchased, the taxpayer used as his principal residence the house or apartment which he was entitled to occupy as such stockholder.

(g) *Husband and wife.* If the taxpayer and his spouse, in accordance with regulations which shall be prescribed by the Secretary or his delegate pursuant to this subsection, consent to the application of paragraph (2) of this subsection, then—

(1) For purposes of this section—

(A) The taxpayer's adjusted sales price of the old residence is the adjusted sales price (of the taxpayer, or of the taxpayer and his spouse) of the old residence, and

(B) The taxpayer's cost of purchasing the new residence is the cost (to the taxpayer, his spouse, or both) of purchasing the new residence (whether held by the taxpayer, his spouse, or the taxpayer and his spouse); and

(2) So much of the gain on the sale of the old residence as is not recognized solely by reason of this subsection, and so much of the adjustment under subsection (e) to the basis of the new residence as results solely from this subsection shall be allocated between the taxpayer and his spouse as provided in such regulations.

This subsection shall apply only if the old residence and the new residence are each used by the taxpayer and his spouse as their

principal residence. In case the taxpayer and his spouse do not consent to the application of paragraph (2) of this subsection then the recognition of gain on the sale of the old residence shall be determined under this section without regard to the rules provided in this subsection.

(h) *Members of Armed Forces.* The running of any period of time specified in subsection (a) or (c) (other than the 1 year referred to in subsection (c) (4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence and during an induction period (as defined in section 112 (c) (5)) except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence. For purposes of this subsection, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

(i) *Special rule for involuntary conversions*—(1) *In general.* For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property, or the sale or exchange of property under threat or imminence thereof—

(A) If occurring after December 31, 1950, and before January 1, 1954, shall be treated as the sale of such property; and

(B) If occurring after December 31, 1953, shall not be treated as the sale of such property.

(2) *Cross reference.* For treatment of residences involuntarily converted after December 31, 1953, see section 1033 (relating to involuntary conversions).

(j) *Statute of limitations.* If after December 31, 1950, the taxpayer during a taxable year sells at a gain property used by him as his principal residence, then—

(1) The statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of—

(A) The taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain,

(B) The taxpayer's intention not to purchase a new residence within the period specified in subsection (a), or

(C) A failure to make such purchase within such period; and

(2) Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

§ 1.1034–1 *Sale or exchange of residence*—(a) *Nonrecognition of gain, general statement.* Section 1034 provides rules for the nonrecognition of gain in certain cases where a taxpayer sells one residence after December 31, 1953, and buys or builds another residence within specified time limits before or after such sale. In general, if the taxpayer reinvests in a new residence an amount at least as large as the adjusted sales price of his old residence, no gain is recognized (see § 1.1034–1 (b) for definition of "adjusted sales price" "new residence" and "old residence") On the other hand, if the new residence costs the taxpayer less than the adjusted sales price of the old residence, gain is recognized to the extent of the difference. Thus, if the proceeds from the sale of an old residence are fully reinvested in a new residence, according to the rules stated in section 1034, none of the gain (if any) realized from the sale is to be reported. If such proceeds are partially so reinvested, gain is to be reported only to the extent provided in section 1034. If none of such proceeds are so reinvested, section 1034 is inapplicable and all of the gain must be reported. Whenever, as a result of the application of section 1034, any or all of the gain realized on the sale of an old residence is not recognized, a corresponding reduction must be made in the basis of the new residence. The provisions of section 1034 are mandatory, so that the taxpayer cannot elect to have gain recognized under circumstances where this section is applicable. Section 1034 applies only to gains; losses are recognized or not recognized without regard to the provisions of this section. Section 1034 affects only the amount of gain recognized, and not the amount of gain realized (see also section 1001 and regulations issued thereunder)

(b) *Definitions.* The following definitions of frequently used terms are applicable for purposes of section 1034 (other definitions and detailed explanations appear in subsequent paragraphs of this regulation)

(1) "Old residence" means property used by the taxpayer as his principal residence which is the subject of a sale by him after December 31, 1953 (section 1034 (a) for detailed explanation see § 1.1034–1 (c) (3))

(2) "New residence" means property used by the taxpayer as his principal residence which is the subject of a purchase by him (section 1034 (a) for detailed explanation and limitations see § 1.1034–1 (c) (3) and (d) (1))

(3) "Adjusted sales price" means the amount realized reduced by the fixing-up expenses (section 1034 (b) (1) for special rule applicable in some cases to husband and wife see § 1.1034–1 (f))

(4) "Amount realized" is to be computed by subtracting

(i) The amount of the items which, in determining the gain from the sale of the old residence, are properly an offset against the consideration received upon the sale (such as commissions and expenses of advertising the property for sale, of preparing the deed, and of other legal services in connection with the sale) from

(ii) The amount of the consideration so received, determined (in accordance with section 1001 (b) and regulations issued thereunder) by adding to the sum of any money so received, the fair market value of the property (other than money) so received. If, as part of the consideration for the sale, the purchaser either assumes a liability of the taxpayer or acquires the old residence subject to a liability (whether or not the taxpayer is personally liable on the debt) such assumption or acquisition, in the amount of the liability, shall be treated as money received by the taxpayer in computing the "amount realized."

(5) "Gain realized" is the excess (if any) of the amount realized over the adjusted basis of the old residence (see also section 1001 (a) and regulations issued thereunder)

(6) "Fixing-up expenses" mean the aggregate of the expenses for work performed (in any taxable year, whether beginning before, on, or after January 1, 1954) on the old residence in order to assist in its sale, provided that such expenses (i) are incurred for work performed during the 90-day period ending on the day on which the contract to sell the old residence is entered into; and (ii) are paid on or before the 30th day after the date of the sale of the old residence; and (iii) are neither (*a*) allowable as deductions in computing taxable income under section 63 (a), nor (*b*) taken into account in computing the amount realized from the sale of the old residence (section 1034 (b) (2) and (3)) "Fixing-up expenses" do not include expenditures which are properly chargeable to capital account and which would, therefore, constitute adjustments to the basis of the old residence (see section 1016 and regulations issued thereunder)

(7) "Cost of purchasing the new residence" means the total of all amounts which are attributable to the acquisition, construction, reconstruction, and improvements constituting capital expenditures, during the period beginning one year before the date of sale of the old residence and ending either (A) one year after such date in the case of a new residence purchased but not constructed by the taxpayer, or (B) 18 months after such date in the case of a new residence the construction of which was commenced by the taxpayer before the expiration of one year after such date (section 1034 (a), (c) (2) and (c) (5) for detailed explanation see § 1.1034–1 (c) (4) for special rule applicable in some cases to husband and wife see § 1.1034–1 (f), see also § 1.1034–1 (b) (9) for definition of "purchase")

(8) "Sale" (of a residence) means a sale or an exchange (of a residence) for other property either of which occurs after December 31, 1953, or an involuntary conversion (of a residence) which occurs after December 31, 1950, and before January 1, 1954 (section 1034 (c) (1) and (i) (1) (A) for detailed explanation concerning involuntary conversion see § 1.1034–1 (h))

(9) "Purchase" (of a residence) means a purchase or an acquisition (of a residence) on the exchange of property or the partial or total construction or reconstruction (of a residence) by the taxpayer (section 1034 (c) (1) and (2)) However, the mere improvement of a residence, not amounting to reconstruction, does not constitute "purchase" of a residence.

(c) *Rules for application of section 1034*—(1) *General rule; limitations on applicability.* Gain realized from the sale (after December 31, 1953) of an old residence will be recognized only to the extent that the taxpayer's adjusted sales price of the old residence exceeds the taxpayer's cost of purchasing the new residence, provided that the taxpayer either (i) within a period beginning one year before the date of such sale and

ending one year after such date purchases property and uses it as his principal residence, or (ii) within a period beginning one year before the date of such sale and ending 18 months after such date uses as his principal residence a new residence the construction of which was commenced by him at any time before the expiration of one year after the date of the sale of the old residence (section 1034 (a) and (c) (5), for detailed explanation of use as "principal residence" see § 1.1034–1 (c) (3)). The rule stated in the preceding sentence applies to a new residence purchased by the taxpayer before the date of sale of the old residence provided the new residence is still owned by him on such date (section 1034 (c) (3)) Section 1034 is not applicable to the sale of a residence if within the previous year the taxpayer made another sale of residential property on which gain was realized but not recognized (section 1034 (d)) For further details concerning limitations on the application of section 1034, see § 1.1034–1 (d)

(2) *Computation and examples.* In applying the general rule stated in subparagraph (1) of this paragraph, the taxpayer should first subtract the commissions and other selling expenses from the selling price of his old residence, to determine the amount realized. A comparison of the amount realized with the cost or other basis of the old residence will then indicate whether there is any gain realized on the sale. Unless the amount realized is greater than the cost or other basis, no gain is realized and section 1034 does not apply. If the amount realized exceeds the cost or other basis, the amount of such excess constitutes the gain realized. The amount realized should then be reduced by the fixing-up expenses (if any) to determine the adjusted sales price. A comparison of the adjusted sales price of the old residence with the cost of purchasing the new residence will indicate how much (if any) of the realized gain is to be recognized. If the cost of purchasing the new residence is the same as, or greater than, the adjusted sales price of the old residence, then none of the realized gain is to be recognized. On the other hand, if the cost of purchasing the new residence is smaller than the adjusted sales price of the old residence, the gain realized is to be recognized to the extent of the difference. (It should be noted that any amount of gain realized but not recognized is to be applied as a downward adjustment to the basis of the new residence (for details see § 1.1034–1 (e).) The application of the general rule stated above may be illustrated by the following examples:

Example (1). A taxpayer decides to sell his residence, which has a basis of $17,500. To make it more attractive to buyers, he paints the outside at a cost of $300 in April, 1954. He pays for the painting when the work is finished. In May, 1954, he sells the house for $20,000. Brokers' commissions and other selling expenses are $1,000. In October, 1954, the taxpayer buys a new residence for $18,000. The amount realized, the gain realized, the adjusted sales price, and the gain to be recognized are computed as follows:

Selling price	$20,000
Less: Commissions and other selling expenses	1,000
Amount realized	19,000
Less: Basis	17,500
Gain realized	1,500
Amount realized	19,000
Less: Fix-up expenses	300
Adjusted sales price	18,700
Cost of purchasing new residence	18,000
Gain recognized	700
Gain realized but not recognized	800
Adjusted basis of new residence (see § 1.1034–1 (e))	17,200

Example (2). The facts are the same as in example (1), except that the selling price of the old residence is $18,500. The computations are as follows:

Selling price	$18,500
Less: Commissions and other selling expenses	1,000
Amount realized	17,500
Less: Basis	17,500
Gain realized	0

(NOTE: Since no gain is realized, section 1034 is inapplicable; it is, therefore, unnecessary to compute the adjusted sales price of the old residence and compare it with the cost of purchasing the new residence. No adjustment to the basis of the new residence is to be made.)

Example (3). The facts are the same as in example (1), except that the cost of purchasing the new residence is $17,000. The computations are as follows:

Selling price	$20,000
Less: Commissions and other selling expenses	1,000
Amount realized	19,000
Less: Basis	17,500
Gain realized	1,500
Amount realized	19,000
Less: Fixing-up expenses	300
Adjusted sales price	18,700
Cost of purchasing the new residence	17,000
Gain recognized	1,500
Gain realized but not recognized	0

(NOTE: Since the adjusted sales price of the old residence exceeds the cost of purchasing the new residence by $1,700, which is more than the gain realized, all of the gain realized is recognized. No adjustment to the basis of the new residence is to be made.)

Example (4). The facts are the same as in example (1), except that the fixing-up expenses are $1,100. The computations are as follows:

Selling price	$20,000
Less: Commissions and other selling expenses	1,000
Amount realized	19,000
Less: Basis	17,500
Gain realized	1,500
Amount realized	19,000
Less: Fixing-up expenses	1,100
Adjusted sales price	17,900
Cost of purchasing the new residence	$18,000
Gain recognized	0
Gain realized but not recognized	1,500
Adjusted basis of new residence (see § 1.1034–1 (e))	16,500

(NOTE: Since the cost of purchasing the new residence exceeds the adjusted sales price, none of the gain realized is recognized.)

(3) *Property used by the taxpayer as his principal residence.* (i) Whether or not property is used by the taxpayer as his residence, and whether or not property is used by the taxpayer as his principal residence (in the case of a taxpayer using more than one property as a residence), depends upon all the facts and circumstances in each case, including the bona fides of the taxpayer. The mere fact that property is, or has been, rented is not determinative that such property is not used by the taxpayer as his principal residence. For example, if the taxpayer purchases his new residence before he sells his old residence, the fact that he temporarily rents out the new residence during the period before he vacates the old residence may not, in the light of all the facts and circumstances in the case, prevent the new residence from being considered as property used by the taxpayer as his principal residence. Property used by the taxpayer as his principal residence may include a houseboat, a house trailer, or stock held by a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216 (b) (1) and (2)) if the dwelling which the taxpayer is entitled to occupy as such stockholder is used by him as his principal residence (section 1034 (f)). Property used by the taxpayer as his principal residence does not include personal property such as a piece of furniture, a radio, etc., which, in accordance with the applicable local law, is not a fixture.

(ii) Where part of a property is used by the taxpayer as his principal residence and part is used for other purposes, an allocation must be made to determine the application of this section. If the old residence is used only partially for residential purposes, only that part of the gain allocable to the residential portion is not to be recognized under this section and only an amount allocable to the selling price of such portion need be reinvested in the new residence in order to have the gain allocable to such portion not recognized under this section. If the new residence is used only partially for residential purposes only so much of its cost as is allocable to the residential portion may be counted as the cost of purchasing the new residence.

(4) *Cost of purchasing new residence.* (i) The taxpayers' cost of purchasing the new residence includes not only cash but also any indebtedness to which the property purchased is subject at the time of purchase whether or not assumed by the taxpayer (including purchase-money mortgages, etc.) and the face amount of any liabilities of the taxpayer which are part of the consideration for the purchase. Commissions and other purchasing expenses paid or incurred by the

taxpayer on the purchase of the new residence are to be included in determining such cost. In the case of an acquisition of a residence upon an exchange which is considered as a "purchase" under this section, the fair market value of the new residence on the date of the exchange shall be considered as the taxpayer's cost of purchasing the new residence. Where any part of the new residence is acquired by the taxpayer other than by "purchase" the value of such part is not to be included in determining the taxpayer's cost of the new residence (see § 1.1034–1 (b) (9) for definition of "purchase") For example, if the taxpayer acquires a residence by gift or inheritance, and spends $20,000 in reconstructing such residence, only such $20,000 may be treated as his cost of purchasing the new residence.

(ii) The taxpayer's cost of purchasing the new residence includes only so much of such cost as is attributable to acquisition, construction, reconstruction, or improvements made within the 2-year or 30-month period of time, as the case may be, in which the purchase and use of the new residence must be made in order to have gain on the sale of the old residence not recognized under this section. Thus, if the construction of the new residence is begun two years before the date of sale of the old residence and completed on the date of sale of the old residence, only that portion of the cost which is attributable to the second year of such construction constitutes the taxpayer's cost of purchasing the new residence, for purposes of section 1034. Furthermore, the taxpayer's cost of purchasing the new residence includes only such amounts as are properly chargeable to capital account rather than to current expense. As to what constitutes capital expenditures, see section 263.

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. M began the construction of a new residence on January 15, 1955, and completed it on October 14, 1955. The cost of $18,000 was incurred ratably over the 9-month period of construction. On July 14, 1956, M sold his old residence and realized a gain of $7,200. In determining the extent to which the realized gain is not to be recognized under section 1034, M's cost of constructing the new residence shall include only the $6,000 which was attributable to the July 15–October 14, 1955, period (3 months at $2,000). The $12,000 balance of the cost of constructing the new residence was not attributable to the period beginning one year before the date of sale of the old residence and ending 18 months after such date and, under section 1034, is not properly a part of M's cost of constructing the new residence.

(d) *Limitations on application of section 1034.* (1) If a residence is purchased by the taxpayer prior to the date of the sale of the old residence, the purchased residence shall, in no event, be treated as a new residence if such purchased residence is sold or otherwise disposed of by him prior to the date of the sale of the old residence (section 1034 (c) (3)) And, if the taxpayer, during the period within which the purchase and use of the new residence must be made in order to have any gain on the sale of the old residence not recognized under this section, purchases more than one property which is used by him as his principal residence during the one year (or 18 months in the case of the construction of the new residence) succeeding the date of the sale of the old residence, only the last of such properties shall be considered a new residence (section 1034 (c) (4)) If within one year before the date of the sale of the old residence, the taxpayer sold other property used by him as his principal residence at a gain, and any part of such gain was not recognized under this section or section 112 (n) of the Internal Revenue Code of 1939, this section shall not apply with respect to the sale of the old residence (section 1034 (d))

(2) The following example will illustrate the rules of subparagraph (1) of this paragraph:

Example. A taxpayer sells his old residence on January 15, 1954, and purchases another residence on February 15, 1954. On March 15, 1954, he sells the residence which he bought on February 15, 1954, and purchases another residence on April 15, 1954. The gain on the sale of the old residence on January 15, 1954, will not be recognized except to the extent to which the taxpayer's adjusted sales price of the old residence exceeds the cost of purchasing the residence which he purchased on April 15, 1954. Gain on the sale of the residence which was bought on February 15, 1954, and sold on March 15, 1954, will be recognized.

(e) *Basis of new residence.* (1) Where the purchase of a new residence results, under this section, in the nonrecognition of any part of the gain realized upon the sale of an old residence, then, in determining the adjusted basis of the new residence as of any time following the sale of the old residence, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain which was not recognized upon the sale of the old residence (section 1034 (e) for special rule applicable in some cases to husband and wife, see § 1.1034–1 (f)) Such a reduction is not to be made for the purpose of determining the adjusted basis of the new residence as of any time preceding the sale of the old residence. For the purpose of this determination, the amount of the gain not recognized under this section upon the sale of the old residence includes only so much of the gain as is not recognized because of the taxpayer's cost, up to the date of the determination of the adjusted basis, of purchasing the new residence.

(2) The following example will illustrate the rule of subparagraph (1) of this paragraph:

Example. On January 1, 1954, the taxpayer buys a new residence for $10,000. On March 1, 1954, he sells for an adjusted sales price of $15,000 his old residence, which has an adjusted basis to him of $5,000 (no fixing-up expenses are involved, so that $15,000 is the "amount realized" as well as the "adjusted sales price"). Between April 1 and April 15 a wing is constructed on the new house at a cost of $5,000. Between May 1 and May 15 a garage is constructed at a cost of $2,000. The adjusted basis of the new residence is $10,000 during January and February, $5,000 during March, $5,000 following the completion of the construction in April, and $7,000 following the completion of the construction in May. Since the old residence was not sold until March 1, no adjustment to the basis of the new residence is made during January and February. Computations for March, April, and May are as follows:

Amount realized on sale of old residence	$15,000
Less: Adjusted basis of old residence	5,000
Gain realized on sale of old residence	10,000
March 1, 1954	
Adjusted sales price of old residence	$15,000
Less: Cost of purchasing new residence	10,000
Gain recognized	5,000
Gain realized but not recognized	5,000
Cost of purchasing new residence	10,000
Less: Gain realized but not recognized	5,000
Adjusted basis of new residence	5,000
April 15, 1954	
Gain realized on sale of old residence	$10,000
Adjusted sales price of old residence	15,000
Less: Cost of purchasing new residence	15,000
Gain recognized	0
Gain realized but not recognized	10,000
Cost of purchasing new residence	15,000
Less: Gain realized but not recognized	10,000
Adjusted basis of new residence	5,000
May 15, 1954	
Gain realized on sale of old residence	$10,000
Adjusted sales price of old residence	15,000
Less: Cost of purchasing new residence	17,000
Gain recognized	0
Gain realized but not recognized	10,000
Cost of purchasing new residence	17,000
Less: Gain realized but not recognized	10,000
Adjusted basis of new residence	7,000

(f) *Husband and wife.* (1) If the taxpayer and his spouse file the consent referred to in this paragraph, then the "taxpayer's adjusted sales price of the old residence" shall mean the taxpayer's, or the taxpayer's and his spouse's adjusted sales price of the old residence, and the "taxpayer's cost of purchasing the new residence" shall mean the cost to the taxpayer, or to his spouse, or to both of them, of purchasing the new residence, whether such new residence is held by the taxpayer, or his spouse, or both (section 1034 (g)). Such consent may be filed only if the old residence and the new residence are each used by the taxpayer and his same spouse as their principal residence. If the taxpayer and his spouse do not file such a consent, the recognition of gain upon sale of the old residence shall be determined under this section without regard to the foregoing.

(2) The consent referred to in subparagraph (1) of this paragraph is a consent by the taxpayer and his spouse

to have the basis of the interest of either of them in the new residence reduced from what it would have been but for the filing of such consent by an amount by which the gain of either of them on the sale of his interest in the old residence is not recognized solely by reason of the filing of such consent. Such reduction in basis is applicable to the basis of the new residence, whether such basis is that of the husband, of the wife, or divided between them. If the basis is divided between the husband and wife, the reduction in basis shall be divided between them in the same proportion as the basis (determined without regard to such reduction) is divided. Such consent shall be filed with the district director with whom the taxpayer filed the return for the taxable year or years in which the gain from the sale of the old residence was realized.

(3) The following examples will illustrate the application of this rule:

Example (1). A taxpayer, in 1954, sells for an adjusted sales price of $10,000 the principal residence of himself and his wife, which he owns individually and which has an adjusted basis to him of $5,000 (no fixing-up expenses are involved, so that $10,000 is the "amount realized" as well as the "adjusted sales price"). Within a year after such sale he and his wife contribute $5,000 each from their separate funds for the purchase of their new principal residence which they hold as tenants in common, each owning an undivided one-half interest therein. If the taxpayer and his wife file the required consent, the gain of $5,000 upon the sale of the old residence will not be recognized to the taxpayer, and the adjusted basis of the taxpayer's interest in the new residence will be $2,500 and the adjusted basis of his wife's interest in such property will be $2,500.

Example (2). A taxpayer and his wife, in 1954, sell for an adjusted sales price of $10,000 their principal residence, which they own as joint tenants and which has an adjusted basis of $2,500 to each of them ($5,000 together) (no fixing-up expenses are involved, so that $10,000 is the "amount realized" as well as the "adjusted sales price"). Within a year after such sale, the wife spends $10,000 of her own funds in the purchase of a principal residence for herself and the taxpayer and takes title in her name only. If the taxpayer and his wife file the required consent, the adjusted basis to the wife of the new residence will be $5,000, and the gain of the taxpayer of $2,500 upon the sale of the old residence will not be recognized. The wife, as a taxpayer herself, will have her gain of $2,500 on the sale of the old residence not recognized under the general rule.

(g) *Members of Armed Forces.* (1) Section 1034 (h) provides a special rule for members of the Armed Forces with respect to the period after the sale of the old residence within which the acquisition of a new residence may result in a nonrecognition of gain on such sale. The running of the 1-year period after the sale of the old residence in the case of the purchase of a new residence, or the 18-month period in the case of the construction of a new residence, is suspended during any time that the taxpayer serves on extended active duty with the Armed Forces of the United States after the sale of the old residence and during an induction period (as defined in section 112 (c) (5)) However, in no event may such suspension extend for more than four years after the date of the sale of the old residence the period within which the purchase or construction of a new residence may result in a nonrecognition of gain. For example, if the taxpayer is on extended active duty with the army from January 1, 1951, to December 31, 1953, and if he sold his old residence on January 1, 1951, the latest date on which the taxpayer may use a new residence constructed by him and have any part of the gain on the sale of the old residence not recognized under this section is January 1, 1955, the date four years after the date of sale of the old residence.

(2) This suspension covers not only the Armed Forces service of the taxpayer but if the taxpayer and his same spouse used both the old and the new residences as their principal residence, then the extension applies in like manner to the time the taxpayer's spouse is on extended active duty with the Armed Forces of the United States.

(3) The time during which the running of the period is suspended is part of such period. Thus, construction costs during such time are includible in the cost of purchasing the new residence under paragraph (c) (4) of this section.

(4) The running of the 1-year (or 18-month) period after the date of sale of the old residence referred to in section 1034 (c) (4) and in paragraph (d) of this section is not suspended; neither is the running of the 1-year period prior to the date of the sale of the old residence within which the new residence may be purchased in order to have gain on the sale of the old residence not recognized under this section.

(5) The term "extended active duty" means any period of active duty which is served pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period. If the call or order is for a period of more than 90 days, it is immaterial that the time served pursuant to such call or order is less than 90 days, if the reason for such shorter period of service occurs after the beginning of such duty. As to what constitutes active service as a member of the Armed Forces of the United States, see § 1.112 (i) As to who are members of the Armed Forces of the United States, see section 7701 (a) (15), and the regulations thereunder.

(h) *Special rule for involuntary conversions.* Section 1034 is inapplicable to involuntary conversions of personal residences occurring after December 31, 1953 (section 1034 (i) (1) (B)) However, for purposes of section 1034, an involuntary conversion of a personal residence occurring after December 31, 1950, and before January 1, 1954, is treated as a sale of such residence (section 1034 (i) (1) (A) see § 1.1034–1 (b) (8)) For the purposes of this section an involuntary conversion is defined as the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, or the sale or exchange of property under threat or imminence thereof. See section 1033 for treatment of residences involuntarily converted after December 31, 1953.

(i) *Statute of limitations.* (1) Whenever a taxpayer sells property used as his principal residence at a gain, the statutory period prescribed in section 6501 (a) for the assessment of a deficiency attributable to any part of such gains shall not expire prior to the expiration of three years from the date that the taxpayer gives notification of—

(i) The taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain,

(ii) The taxpayer's intention not to purchase a new residence within the period when such a purchase will result in nonrecognition of any part of such gain, or

(iii) The taxpayer's failure to make such a purchase within such period—

to the district director with whom the return was filed for the taxable year or years in which the gain from the sale of the old residence was realized (section 1034 (j)) Any gain from the sale of the old residence which is required to be recognized shall be included in gross income for the taxable year or years in which such gain was realized. Any deficiency attributable to any portion of such gain may be assessed before the expiration of the 3-year period described in this paragraph, notwithstanding the provisions of any law or rule of law which might otherwise bar such assessment.

(2) The notification required by the preceding subparagraph shall contain all pertinent details in connection with the sale of the old residence and, where applicable, the purchase price of the new residence. The notification shall be in the form of a written statement and shall be accompanied, where appropriate, by an amended return for the year in which the gain from the sale of the old residence was realized, in order to reflect the inclusion in gross income for that year of gain required to be recognized in connection with such sale.

(j) *Effective date.* Pursuant to section 7851 (a) (1) (C) subsections (a), (b), (c), (d) (f), (g) and (i) of this section apply in the case of any "sale" (as defined in paragraph (8) of subsection (b)) made after December 31, 1953, although such sale may occur in a taxable year subject to the Internal Revenue Code of 1939. Similarly, the rule in subsection (h) that involuntary conversions of personal residences are not to be treated as sales for purposes of section 1034 but are governed by section 1033 applies to any such involuntary conversion made after December 31, 1953, although such involuntary conversion may occur in a taxable year subject to the Internal Revenue Code of 1939. The rule in subsection (e) requiring an adjustment to the basis of a new residence, the purchase of which results (under section 1034 or section 112 (n) of the Internal Revenue Code of 1939) in the nonrecognition of gain on the sale of an old residence, applies in determining the adjusted basis of the new residence at any time following such sale, although such sale may occur in a taxable year subject to the Internal Revenue Code of 1939.

[F. R. Doc. 55-6106; Filed, July 27, 1955; 8:49 a. m.]

[26 CFR (1954) Parts 182, 225, 240, 245]

INDUSTRIAL ALCOHOL, WAREHOUSING OF DISTILLED SPIRITS; WINE; BEER

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: Director, Alcohol and Tobacco Tax Division, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Under the provisions of Section 309 of the Tariff Act of 1930, as amended, distilled spirits, wines, or beer may be withdrawn free of tax from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, from a foreign-trade zone, and, under the provisions of such Act and the Internal Revenue Code of 1954, from any internal revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, for use as supplies on vessels employed in the fisheries.

In order to more clearly define the type of vessels engaged in the fisheries which are entitled to the privileges as set forth above, the Bureau of Customs has amended its regulations covering such transactions.

In order to conform the Internal Revenue Service Regulations with the regulations of the Bureau of Customs, 26 CFR (1954) Part 182, 26 CFR (1954) Part 225, 26 CFR (1954) Part 240, and 26 CFR (1954) Part 245, are hereby amended as follows:

PARAGRAPH 1. 26 CFR (1954) Part 182, is amended as follows:

(A) Section 182.630a is amended by striking the word "Alcohol" in the first sentence and inserting in lieu thereof the words: "Subject to the applicable provisions of this part, alcohol"

(B) By inserting, immediately following § 182.630a, the following new section:

§ 182.630a–1 *Vessels employed in the fisheries.* Alcohol may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 182.630a relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn alcohol is intended to be removed from the vessel in, or otherwise returned to, the United States and conditioned upon compliance with the applicable provisions of this part. Lading of such alcohol for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on Customs Form 5125, of the master of the vessel and designation by the applicant, in part 1 of the Form 1659 submitted to the assistant regional commissioner for execution of the permit for removal and transportation of the alcohol, that the alcohol is to be laden for use as supplies on a vessel employed in the fisheries. The original application on Customs Form 5125, after approval, shall be stamped with the withdrawal number (permit number on Form 1659) and date thereof and shall be returned by the collector of customs to the vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented by the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the alcohol until the collector of customs is satisfied that it has been consumed and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condition that any such withdrawn alcohol remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. When such alcohol has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed Customs Form 5125 taken up from the vessel's master and forward the form to the assistant regional commissioner for the region in which the premises from which the alcohol was withdrawn is located. In the event of a failure on the part of the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the alcohol was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the premises from which the alcohol was withdrawn is located of all the facts in the case for determination as to whether to assess the principal on the bond for the tax on the alcohol.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(C) Paragraph (a) of § 182.630d is amended as follows:

(1) By inserting after the word "by" in the last sentence the following words "the applicable provisions of"

(2) By striking the word "or" appearing after "§ 182.630*l*" in the last sentence and inserting in lieu thereof, a comma.

(3) By inserting after "182.630n" in the last sentence the following: ", or 182.630a–1."

(D) Section 182.630*j* is amended as follows:

(1) By inserting between the first and second sentences, the following new sentence: "In the case of supplies on vessels employed in the fisheries, the master of the vessel must comply with the applicable provisions of § 182.630a–1."

(2) By striking "§ 182.603" from the last sentence and inserting in lieu thereof the following: "§§ 182.603 and 182.630a–1"

(E) Section 182.630*l* is amended to read as follows:

§ 182.630*l* *Evidence of use on vessels and aircraft.* The principal on the bond shall also submit to the assistant regional commissioner, within six months (or such additional time as may be granted by the assistant regional commissioner) a statement of the master or other officer of the vessel or aircraft on which the alcohol was laden, having knowledge of the facts, showing that the alcohol has been used on board the vessel or aircraft, and that no portion thereof has been unladen in the United States or any of its territories or possessions: *Provided,* That such statement will not be required, in case of any shipment, when the alcohol is laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the alcohol does not exceed $100. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct:" and *Provided further,* That, in the case of vessels employed in the fisheries, in lieu of such statement, the master of the vessel shall comply with the applicable provisions of § 182.630a–1.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(F) Section 182.630m is amended by striking out the final period of the section and adding: ", except, that, in the case of withdrawals for supplies on vessels employed in the fisheries, crediting of the bond will be subject to compliance with the provisions of § 182.630a–1"

PAR. 2. 26 CFR 225 is amended as follows:

(A) Section 225.860 is amended by striking the word "Distilled" in the first sentence and inserting in lieu thereof the words: "Subject to the applicable provisions of this part, distilled"

(B) By inserting, immediately following § 225.860, the following new section:

§ 225.860a *Vessels employed in the fisheries.* Distilled spirits may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 225.860, relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn distilled spirits is intended to be removed

from the vessel in, or otherwise returned to, the United States and conditioned upon compliance with the applicable provisions of this part. Lading of such distilled spirits for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on Customs Form 5125, of the master of the vessel and designation by the applicant, in part 1 of the Form 206 submitted to the assistant regional commissioner for execution of the permit for removal and transportation of the spirits, that the spirits are to be laden as supplies on a vessel employed in the fisheries. The original application on Customs Form 5125, after approval, shall be stamped with the withdrawal number (serial number of Form 206) and date thereof and shall be returned by the collector of customs to the vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented by the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the spirits until the collector of customs is satisfied that they have been consumed and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condition that any such withdrawn spirits remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. When such spirits have been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed Customs Form 5125 taken up from the vessel's master and forward the form to the assistant regional commissioner for the region in which the warehouse from which the spirits were withdrawn is located. In the event of a failure on the part of the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the spirits were not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the warehouse from which the spirits were withdrawn is located of all the facts in the case for determination as to whether to assess the principal on the bond for the tax on the spirits.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(C) Section 225.864 is amended as follows:

(1) By striking the word "and" in the second sentence.

(2) By inserting after "225.828" in the second sentence, the following: ", and 225.860a"

(D) Section 225.865 is amended as follows:

(1) By inserting between the words "or" and "where" in the proviso in the first sentence, the following words: " in cases other than supplies for vessels employed in the fisheries,"

(2) By inserting at the end of the section the following new sentence: "In the case of supplies for vessels employed in the fisheries compliance with the provisions of § 225.860a is required."

(E) Section 225.866 is amended by striking out the final period of the section and adding: ", except that credit will not be given in the case of withdrawals for supplies on vessels employed in the fisheries until the spirits are accounted for in conformity with the requirements of § 225.860a."

PAR. 3. 26 CFR (1954) Part 240 is amended as follows:

(A) Section 240.690 is amended by striking "§ 240.691" in the first sentence and inserting in lieu thereof: "§§ 240.690a and 240.691"

(B) By inserting, immediately following § 240.690, the following new section:

§ 240.690a *Vessels employed in the fisheries.* Wine may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 240.690 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn wine is intended to be removed from the vessel in, or otherwise returned to, the United States and conditioned upon compliance with the applicable provisions of this part. Lading of such wine for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on Customs Form 5125, of the master of the vessel and designation by the applicant in part 1 of the Form 711–B submitted to the assistant regional commissioner for approval of the removal of the wine, that the wine is to be laden for use as supplies on a vessel employed in the fisheries. The original application on Customs Form 5125, after approval, shall be stamped with the withdrawal number (exporter's serial number on Form 711–B) and date thereof and shall be returned by the collector of customs to the vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented by the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the wine until the collector of customs is satisfied that it has been consumed and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condition that any such withdrawn wine remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. When such wine has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed Customs Form 5125 taken up from the vessel's master and forward the form to the assistant regional commissioner for the region in which the bonded wine cellar from which the wine was withdrawn is located. In the event of a failure on the part of the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the wine was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the bonded wine cellar from which the wine was withdrawn is located of all the facts in the case for determination as to whether to assess the principal on the bond for the tax on the wine.

(68A Stat. 695; 26 U. S. C. 5362)

(C) By inserting, immediately following § 240.701, the following new section:

§ 240.702 *Evidence of use on vessels employed in the fisheries.* In the case of wine laden for use on vessels employed in the fisheries, compliance with the provisions of § 240.690a is required.

(68A Stat. 695; 26 U. S. C. 5362)

PAR. 4. 26 CFR (1954) Part 245 is amended as follows:

(A) Section 245.290 is amended by striking the word "Beer" in the first sentence and inserting in lieu thereof the words: "Subject to the applicable provisions of this subpart, beer"

(B) By inserting, immediately following § 245.290, the following new section:

§ 245.290a *Vessels employed in the fisheries.* Beer may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 245.290 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn beer is intended to be removed from the vessel in, or otherwise returned to, the United States and conditioned upon compliance with the applicable provisions of this subpart. Lading of such beer for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on Customs Form 5125, of the master of the vessel and designation by the applicant in part 1 of the notice, Form 1689, that the beer is to be laden for use as supplies on a vessel employed in the fisheries. The original application on Customs Form 5125, after approval, shall be stamped with the withdrawal number (brewer's serial number on Form 1689) and date thereof and shall be returned by the collector of customs to the vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented by the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the beer until the collector of customs is sat-

isfied that it has been consumed and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condttion that any such withdrawn beer remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. When such beer has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed Customs Form 5125 taken up from the vessel's master and forward the form to the assistant regional commissioner for the region in which the brewery from which the beer was withdrawn is located. In the event of a failure on the part of the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the beer was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the brewery from which the beer was withdrawn is located of all the facts in the case for determination as to whether to assess the brewer for the tax on the beer.

(68A Stat. 612; 26 U. S. C. 5053)

(C) Section 245.294 is amended to read as follows:

§ 245.294 *Evidence of lading for use.* When beer has been laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted promptly to the assistant regional commissioner a statement of the master or other officer of the vessel or aircraft on which the beer was laden, having knowledge of the facts, showing that the beer has been laden and will be used on board the vessel or aircraft, and that no portion thereof has been or will be unladen in the United States or any of its territories or possessions: *Provided,* That such statement will not be required, in the case of any shipment, where the beer has been laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the beer does not exceed $200. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of beer for use as supplies on vessels employed in the fisheries, compliance with the provisions of § 245.290a is required. On receipt of a satisfactory statement (if required) and the original of Customs Form 5125, bearing final certification by the collector of customs as to proper accounting of the beer (if required) the assistant regional commissioner will enter proper credit in the export account. In the case of beer laden on vessels of war, or in cases other than supplies on vessels employed in the fisheries, where the amount of the tax on the beer does not exceed $200, credit will be given at the time of receipt of the certificate of inspection and lading executed by the inspector of customs as provided in § 245.276.

(68A Stat. 612; 26 U. S. C. 5053)

[F. R. Doc. 55-6105; Filed, July 27, 1955; 8:49 a. m.]

[26 CFR (1954) Part 252]

Drawback on Liquors Exported

Notice of Proposed Rulemaking

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: Director, Alcohol and Tobacco Tax Division, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] T. Coleman Andrews,
Commissioner of Internal Revenue.

Under the provisions of section 309 of the Tariff Act of 1930, as amended, and the Internal Revenue Code of 1954, distilled spirits, wine and beer, upon which an internal revenue tax has been paid, may be laden for use on vessels employed in the fisheries, with benefit of drawback of the internal revenue tax paid thereon.

In order to more clearly define the types of vessels engaged in the fisheries which are entitled to the privileges set forth above, the Bureau of Customs has amended its regulations covering such transactions.

Therefore, in order to conform the Internal Revenue Service Regulations with the regulations of the Bureau of Customs, 26 CFR (1954) Part 252, is amended as follows:

Paragraph 1. Section 252.3 is amended by inserting, immediately following the word "fisheries" in paragraphs (b) and (e) the phrase: "as provided in § 252.3a"

Par. 2. Immediately following § 252.3, a new § 252.3a is added, as follows:

§ 252.3a *Vessels employed in the fisheries.* Distilled spirits, wines, and beer may be shipped and laden with benefit of drawback on fishing vessels under the provisions of paragraphs (b) and (e) of § 252.3 only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied from the quantity requested, the vessel's complement, and its employment in substantially continuous fishing activities that none of the withdrawn articles is intended to be removed from the vessel in or otherwise returned to the United States and conditioned upon compliance with the applicable provisions of this part. Lading of such articles for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on Customs Forms 5125, of the master of the vessel and designation by the applicant in Part 1 of the notice Form 1582, 1582-A or 1582-B, as the case may be, that the articles are to be laden for use as supplies on a vessel employed in the fisheries. The original application on Customs Form 5125, after approval, shall be stamped with the withdrawal number (entry number on Form 1582, 1582-A or 1582-B) and date thereof and shall be returned by the collector of customs to the vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented by the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open to the public) after each subsequent arrival of the vessel and that an accounting shall be made at that time of the disposition of the articles until the collector of customs is satisfied that they have been consumed and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condition that any such withdrawn articles remaining on board while the vessel is in port shall be safeguarded to such extent as the collector for the port or place of arrival shall deem necessary. When such articles have been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed Customs Form 5125 taken up from the vessel's master and forward the form to the assistant regional commissioner for the region in which the claim for drawback is required to be filed. In the event of a failure on the part of the master of the vessel to comply with the conditions of the application or upon receipt of evidence that the spirits were not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the claim for drawback is required to be filed of all the facts in the case for determination as to whether to make demand upon the principal and the surety on the bond in accordance with the provisions of § 252.125, or disallowance of the claim, as the case may be.

Par. 3. Section 252.41 is amended to read as follows:

§ 252.41 *General.* Whenever, as to any shipment, a certificate of foreign landing, as provided by § 252.114, is required by the assistant regional commissioner or an affidavit as to lading and intended use is required under the provisions of § 252.115, or an accounting of the spirits or wines is required as provided in § 252.3a, and the exporter desires drawback on the shipment of distilled spirits or wines under the provisions of this subpart prior to submission of such certificate or affidavit to the assistant regional commissioner, or accounting for the distilled spirits or wines as provided in

§ 252.3a, he shall file bond in accordance with the provisions of this subpart.

PAR. 4. Section 252.43 is amended by striking the period at the end thereof and adding the following: "or, in the case of withdrawals for supplies on vessels employed in the fisheries, until the original of Customs Form 5125, bearing final certification by the collector of customs as to proper accounting of the spirits or wines is submitted as required in § 252.3a."

PAR. 5. Section 252.45 is amended by revising the second sentence to read as follows: "The liability under such bond shall be a continuing one, subject to increase as successive claims for drawback are allowed by the assistant regional commissioner, and to decrease as satisfactory evidence of exportation, lading for use on vessels (or, in the case of spirits or wines laden for use on vessels employed in the fisheries, the original of Customs Form 5125 bearing final certification by the collector of customs as to proper accounting of such articles) or of loss after shipment without negligence on the part of the exporter, as hereinafter provided, is received by the assistant regional commissioner."

PAR. 6. Section 252.48 is amended by revising the last sentence to read as follows: "Credit will be given for the amount of drawback represented by the distilled spirits or wines concerning which satisfactory evidence of exportation or of lading for use as supplies on vessels (or, in the case of spirits or wines laden for use on vessels employed in the fisheries, original of Customs Form 5125 bearing final certification by the collector of customs as to proper accounting for such articles) or of loss outside of the jurisdiction of the United States without negligence on the part of the exporter, as hereinafter provided, has been received."

PAR. 7. Section 252.115 is amended to read as follows:

§ 252.115 *Evidence of use as supplies on vessels.* If the spirits or wines were laden on board a vessel for use as ship's supplies, there must be submitted promptly to the assistant regional commissioner with whom the claim is filed, a statement of the master or other officer of the vessel on which the articles were laden, having knowledge of the facts, showing that the spirits or wines have been laden and will be used on board the vessel, and that no portion thereof has been or will be landed in the United States or any of its possessions: *Provided,* That such statement will not be required, in case of any shipment, when the distilled spirits or wines are laden on vessels of war or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the distilled spirits or wines does not exceed $100. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of vessels employed in the fisheries, compliance with the provisions of § 252.3a is required.

PAR. 8. Section 252.119 is amended as follows:

(A) By inserting between the words "on vessels," and "or proof of" the following: "compliance with § 252.3a,";

(B) By striking the final period at the end of the section and adding: " and, where required under the provisions of § 252.3a, acounting for such spirits or wines shall be accomplished within such time as the collector of customs shall consider reasonable."

PAR. 9. The first sentence is § 252.121 is amended as follows:

(A) By inserting between the words "or aircraft," and "if required" the words: "or an accounting of the spirits or wines,".

(B) By inserting between the words "this subpart," and "cannot be" the words: "or section 252.3a,"

PAR. 10. Section 252.122 is amended as follows:

(A) By inserting, in the first sentence, between the words "on vessels," and "application for" the words: "or to account for the distilled spirits or wines where required by § 252.3a,".

(B) By inserting, in the last sentence, between the words "use as supplies" and "have not been", the words: "(or accounting for the spirits or wines)"

PAR. 11. Section 252.124 is amended to read as follows:

§ 252.124 *Approval of relief application.* If the assistant regional commissioner is satisfied from the evidence presented that the spirits or wines were duly exported from the United States and were landed at the designated foreign port or, for a good and sufficient reason, at some other port outside the jurisdiction of the United States, or were laden as supplies on vessels or were, in the case of spirits or wines laden as supplies on vessels employed in the fisheries, consumed or lost at sea and not relanded in the United States, its territories or possessions, and that the failure of the applicant to furnish the prescribed evidence of landing, or lading for use as supplies on vessels, or to account for the spirits or wines when required by § 252.3a, was not occasioned by any lack of diligence on his part or that of his agents, and, in the case of supplies on vessels employed in the fisheries, the master of the vessel, and that the applicant is unable to produce any other or better evidence than that submitted with the application, he will indorse his approval on the application, and enter proper credit in the account kept with the drawback bond or allow the claim, as the case may be.

PAR. 12. The first sentence of § 252.125 is amended as follows:

(A) By inserting between the words "use as supplies," and "as required", the following: "or the spirits or wines are not accounted for,";

(B) By striking the comma between "subpart" and "the assistant", and inserting: "or § 252.3a,"

PAR. 13. Section 252.165 is amended to read as follows:

§ 252.165 *Evidence of lading for use on vessels or aircraft.* When beer has been laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted promptly to the assistant regional commissioner a statement of the master or other officer of the vessel or aircraft on which the articles were laden, having knowledge of the facts, showing that the beer has been laden and will be used as supplies on board the vessel or aircraft, and that no portion thereof has been or will be unladen in the United States or any of its territories or possessions: *Provided,* That such statement will not be required, in the case of any shipment, when the beer has been laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the beer does not exceed $200 and in such case certification by the customs officer of inspection and lading for use will be considered evidence of lading or use. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of vessels employed in the fisheries, compliance with the provisions of § 252.3a is required.

[F. R. Doc. 55-6104; Filed, July 27, 1955; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239]

REVISION AND CONSOLIDATION OF REGULATION A AND REGULATION D

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed revision of its Regulation A and the consolidation with that regulation of Regulation D. Regulation A provides a general exemption from registration under the Securities Act of 1933 for certain classes of domestic securities and Regulation D provides a similar exemption for certain Canadian securities. The proposed revision would result in a single integrated exemptive regulation for both domestic and Canadian securities.

One of the principal features of the revised regulation would be the following special requirements which would apply to promotional companies:

a. The securities to be offered would have to be qualified for sale in the State or Province in which the issuer has its principal business operations, and offered for sale in such State or Province concurrently with the offering in other jurisdictions.

b. No securities could be offered except for the account of the issuer; secondary offerings, "bail-outs," and offerings of underwriters' shares or options, would not be permitted under the exemption.

c. Provision would have to be made, by escrow or otherwise, to assure the

return to subscribers of the money paid in unless at least 85 percent of the total offering is sold and paid for within six months after the commencement of the offering.

d. In computing the amount of securities which could be offered under the new regulation, there would have to be included the amount of all securities issued or proposed to be issued, for assets or services or to directors, officers, promoters, underwriters, dealers or security salesman, and held by them, except to the extent that such securities are escrowed or otherwise effectively held off the market for a period of one year after the commencement of the offering under the new regulation.

e. No sales literature, other than the prescribed offering circular and limited advertisements specifically permitted by the rules, could be used in connection with the offering of securities of promotional companies.

The new regulation would continue the requirement for the filing of a notification, and for the filing and use of an offering circular except where the offering does not exceed $50,000. Provision would be added for keeping the information in the offering circular on a current basis. Permission to use limited advertisements prior to the delivery of an offering circular would also be continued.

The rule providing for the entry of denial or suspension orders would be retained and would be broadened to give the Commission discretion in the matter where specified persons connected with the offering have been indicted or where injunctive proceedings against them have been instituted. The Commission would also be authorized to enter a denial or suspension order where specified persons failed to cooperate or obstructed the making of an investigation by the Commission.

The revised regulation would provide for the filing of consents to the service of process on nonresidents similar to the requirements of the present Regulation D.

The notification form, Form 1–A[1] (§ 239.90) would be somewhat expended to require information necessary to the expeditious processing of filings under the new regulation. Sales reports on Form 2–A[1] (§ 239.91) would be required at three-month intervals and would be in somewhat more detail than the reports presently required. Forms for the filing of consents to the service of process would be substantially similar to those presently used in conection with Regulation D.

A copy of the proposed regulation is set forth below.

All interested persons are invited to submit data, views and comments on the proposed regulation, in writing, to the Securities and Exchange Commission, Washington 25, D. C., on or before August 15, 1955. Except in cases where it is requested that such communications be kept confidential, they will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

JULY 15, 1955.

REGULATION A. GENERAL EXEMPTION

§ 230.225 *Definitions of terms used in §§ 230.225 to 230.236.* As used in §§ 230.225 to 230.236, the following terms shall have the meaning indicated:

(a) An "affiliate" of an issuer is a person controlling, controlled by or under common control with such issuer. An individual who controls an issuer is also an affiliate of such issuer. A person who owns less than a majority interest in an unincorporated theatrical production shall not be deemed an affiliate thereof for the purposes of this definition.

(b) A "predecessor" of an issuer is a person the major portion of whose assets have been acquired directly or indirectly by the issuer and who at the time of the transfer of such assets was an affiliate of the issuer or of any person who is now an affiliate of the issuer.

(c) A "principal underwriter" is an underwriter who is a party to the underwriting agreement (whether written or oral) with the issuer or other person on whose behalf the securities are offered hereunder. "Underwriter" shall have the meaning given in section 2 (11) of the act.

(d) A "promoter" of an issuer is a person who took an important part in the organization of such issuer, or in the acquisition of its assets.

(e) A "promotional company" is (1) any issuer which was incorporated or organized within one year prior to the date of filing the notification required by § 230.229 and has not had a net income from operations, or (2) any issuer incorporated or organized more than one year prior to such date and which has not had a net income from operations, of the character in which the issuer intends to engage, for at least one of the last two fiscal years.

(f) A "Province" is any Province or Territory of Canada.

(g) A "State" is any State or Territory of the United States, or the District of Columbia.

§ 230.226 *Securities exempted.* (a) Except as hereinafter provided in this section, securities issued by any of the following persons shall be exempt from registration under the act if offered in accordance with the terms and conditions of §§ 230.225 to 230.236:

(1) Any corporation, unincorporated association or trust (i) which is incorporated or organized under the laws of the United States or Canada or any State or Province thereof and (ii) which has or proposes to have its principal business operations in the United States or Canada; or

(2) Any individual who (i) is a resident of the United States or Canada and (ii) who has or proposes to have his principal business operations in the United States or Canada; or

(3) In the case of an offering to existing security holders on a pro rata basis pursuant to warrants or rights, any direct or indirect majority-owned subsidiary of any issuer specified in (1) above which has securities registered on a national securities exchange pursuant to the provisions of the Securities Exchange Act of 1934.

(b) No exemption under § 230.225 to 230.236 shall be available for any of the following securities:

(1) Fractional undivided interests in oil or gas rights as defined in § 230.300, or similar interests in other mineral rights;

(2) Certificates of interest as defined in § 230.360;

(3) Assessable securities;

(4) Securities of any investment company registered or required to be registered under the Investment Company Act of 1940.

(c) No exemption under §§ 230.225 to 230.236 shall be available for the securities of any issuer if such issuer, any of its predecessors or any affiliated issuer—

(1) Has filed a registration statement which is the subject of pending proceedings under section 8 (b) or 8 (d) of the act, or is subject to an order entered thereunder within five years prior to the filing of the notification required by § 230.229;

(2) Is subject to pending proceedings under § 230.234, or any similar rule adopted under section 3 (b) of the act, or to an order entered thereunder within five years prior to the filing of such notification;

(3) Has been convicted within five years prior to the filing of such notification of any crime or offense involving the purchase or sale of securities;

(4) Is subject to any order; judgment or decree of any court of competent jurisdiction, entered within five years prior to the filing of such notification, temporarily or permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of securities; or

(5) Is subject to a United States Post Office fraud order.

Unless cause be shown as to why it is not necessary or appropriate in the public interest or for the protection of investors that the exemption be denied in the particular case.

(d) No exemption under §§ 230.225 to 230.236 shall be available for the securities of any issuer if any of its directors, officers or principal security holders, any of its promoters presently connected with it in any capacity, any underwriter of the securities proposed to be offered, or any partner, director or officer of such underwriter—

(1) Has been convicted within ten years prior to the filing of the notification required by § 230.229 of any crime or offense involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer or investment adviser;

[1] Filed as part of the original document.

(2) Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or permanently enjoining or restraining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer or investment adviser;

(3) Is subject to an order of the Commission revoking the registration of such person as a broker or dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934, or has been found by the Commission to be a cause of any order of revocation under such section which is in effect;

(4) Has been and is suspended or expelled from membership in a national, provincial or state securities association, a national securities exchange or a Canadian securities exchange, for conduct inconsistent with just and equitable principles of trade; or

(5) Is subject to a United States Post Office fraud order.

unless cause be shown as to why it is not necessary or appropriate in the public interest or for the protection of investors that the exemption be denied in the particular case.

§ 230.227 *Special requirements for promotional companies.* Notwithstanding any other provision of §§ 230.225 to 230.236, no securities issued by a promotional company shall be offered or sold under §§ 230.225 to 230.226 unless the following conditions are met:

(a) The securities to be offered under §§ 230.225 to 230.236 shall be qualified or made eligible for offering in the State or Province in which the issuer conducts or proposes to conduct its principal business operations and shall be offered for sale in such State or Province concurrently with the offering pursuant to §§ 230.225 to 230.236;

(b) None of the securities to be offered under §§ 230.225 to 230.236 are to be offered for the account of any person other than the issuer of such securities;

(c) Effective provision shall be made, by escrow arrangements or otherwise, to assure the return to subscribers of all funds paid by them for the securities sold hereunder, unless within six months after the commencement of the offering at least 85 percent of the securities originally proposed to be offered and sold hereunder have been sold and paid for;

(d) In computing the amount of securities which may be offered under §§ 230.225 to 230.236, there shall be included, in addition to the securities specified in § 230.228—

(1) All securities issued prior to the filing of the notification, or proposed to be issued, for a consideration consisting in whole or in part of assets or services and held by the person to whom issued; and

(2) All securities issued to and held by or proposed to be issued, pursuant to options or otherwise, to any director, officer or promoter of the issuer, or to any underwriter, dealer or security salesman:

Provided, That such securities need not be included to the extent that effective provision is made, by escrow arrangements or otherwise, to assure that none of such securities or any interest therein will be reoffered to the public within one year after the commencement of the offering under §§ 230.225 to 230.236 and that any reoffering of such securities will be made in accordance with the applicable provisions of the act.

(e) No notice, circular, advertisement, letter or other communication, written or by radio or television, other than the offering circular required by § 230.230 (a) and communications permitted by § 230.230 (c) or § 230.231 (b), shall be used in connection with the offering or sale of the securities offered under §§ 230.225 to 230.236.

§ 230.228 *Amount of securities exempted.* (a) The aggregate offering price of all of the following securities of (1) the issuer, (2) its predecessors and (3) all of its affiliates which were incorporated or organized, or became affiliates of the issuer, within the past two years, shall not exceed $300,000:

(1) All securities of such persons presently being offered under §§ 230.225 to 230.236, or under any other regulation adopted pursuant to section 3 (b) of the act, or specified in the notification required by § 230.229 as proposed to be so offered;

(2) All securities of such persons previously sold pursuant to an offering under §§ 230.225 to 230.236, or under any other regulation adopted pursuant to section 3 (b) of the act, commenced within one year prior to the commencement of the proposed offering; and

(3) All securities of such persons sold in violation of section 5 (a) of the act within one year prior to the commencement of the proposed offering:

Notwithstanding the foregoing, the aggregate offering price of all securities of such person so offered or sold on behalf of any one person other than the issuer or issuers of such securities shall not exceed $100,000, except that this limitation shall not apply if the securities are to be offered on behalf of the estate of a deceased person within two years after the death of such person.

(b) The aggregate offering price of securities which have a determinable market value shall be computed upon the basis of such market value as determined from transactions or quotations on a specified date within 15 days prior to the date of filing the letter of notification, or the offering price to the public, whichever is higher: provided, that the aggregate gross proceeds actually received from the public shall not exceed the maximum aggregate offering price permitted, in the particular case, by paragraph (a) of this section.

(c) Where securities which have no determinable market value are offered in exchange for outstanding securities, claims, property, or services the aggregate offering price thereof shall be computed at the public offering price of securities of the same class for cash, or if no such offer, then upon the basis of the value of the securities, claims, property or services to be received in exchange, as established by bona fide sales made within a reasonable time, or in the absence of such sales, upon the basis of the fair value of the securities, claims, property or services to be received in exchange, as determined by some accepted standard.

(d) The following securities need not be included in computing the amount of securities which may be offered under §§ 230.225 to 230.236: (1) Unsold securities the offering of which has been withdrawn with the consent of the Commission by amending the pertinent notification to reduce the amount stated therein as proposed to be offered; or (2) securities acquired, otherwise than for distribution, by a single holder of the majority of the outstanding voting stock of the issuer in connection with a pro rata offering to stockholders; or (3) in the case of an offering by an issuer to existing security holders on a pro rata basis pursuant to warrants or rights, that portion of the offering made outside of the United States and Canada.

§ 230.229 *Filing of notification on Form 1–A.* (a) At least 15 days (Saturdays, Sundays and holidays excluded) prior to the date on which the initial offering of any securities is to be made under §§ 230.225 to 230.236, there shall be filed with the Regional Office of the Commission specified below four copies of a notification on Form 1–A. The Commission may, however, in its discretion, authorize the commencement of the offering prior to the expiration of such 15-day period upon a written request for such authorization.

(b) The notification shall be signed by the issuer and each person, other than the issuer, for whose account any of the securities are to be offered, provided that a notification for real estate notes which are to be offered upon the basis of the value of the security, rather than the responsibility of the maker, need be signed only by the underwriter. If the notification is signed by any person on behalf of any other person, evidence of authority to sign on behalf of such other person shall be filed with the notification, except where an officer of the issuer signs on behalf of the issuer.

(c) The notification shall be filed with the Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted in the United States. The notification of an issuer having or proposing to have its principal business operations in Canada shall be filed with the Regional Office nearest the place where the issuer's principal business operations are conducted or proposed to be conducted, unless the offering is to be made through a principal underwriter located in the United States, in which case the notification shall be filed with the Regional Office for the region in which such underwriter has its principal office.

(d) Any amendment to the notification shall be signed in the same manner and filed in the same regional office as the notification.

§ 230.230 *Filing and use of offering circular.* (a) Except as provided in

paragraph (c) of this section and in § 230.231—

(1) No written offer of securities of any issuer shall be made under §§ 230.225 to 230.236 unless an offering circular containing the information specified in Form 1–A is concurrently given or has previously been given to the person to whom the offer is made, or has been sent to such person under such circumstances that it would normally have been received by him at or prior to the time of such written offer; and

(2) No securities of such issuer shall be sold under §§ 230.225 to 230.236 unless such an offering circular is given to the person to whom the securities are sold, or is sent to such person under such circumstances that it would normally be received by him, with or prior to any confirmation of the sale, or prior to the payment by him of all or any part of the purchase price of the securities, whichever first occurs.

(b) In the case of transactions effected on a securities exchange, delivery of the offering circular shall be deemed to have been made if prior to such transactions a reasonable number of copies of the offering circular have been furnished to the exchange for delivery to any person or persons requesting copies thereof.

(c) Any written advertisement or other written communication, or any radio or television broadcast, which states from whom an offering circular containing the information specified in Form 1–A may be obtained and in addition contains no more than the following information may be published, distributed or broadcast at or after the commencement of the public offering to any person prior to sending or giving such person a copy of such offering circular:

(1) The name of the issuer of such security;

(2) The title of the security, the amount being offered, and the per unit offering price to the public;

(3) The identity of the general type of business of the issuer; and

(4) A brief statement as to the general character and location of its property.

(d) The offering circular may be printed, mimeographed, lithographed or typewritten, or prepared by any similar process which will result in clearly legible copies. If printed, it shall be set in roman type at least as large as ten-point modern type, except that financial statements and other statistical or tabular matter may be set in roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

(e) No offering circular shall be used more than seven months after the date thereof unless it is revised or amended to contain the information specified in Form 1–A as of a date not more than three months prior to such use, except that in the case of offerings under stock purchase, savings, stock-option or other similar plan for the benefit of employees, no offering circular shall be used more than 16 months after the date thereof unless it is revised or amended to contain the information specified in Form 1–A as of a date not more than 12 months prior to such use. Copies of every revised or amended offering circular shall be filed in accordance with paragraph (f) of this section.

(f) Four copies of the offering circular required by this section, which is to be used at the commencement of the offering, shall be filed with the notification required by § 230.229 at the time such notification is filed and shall be deemed a part thereof. If the offering circular is thereafter revised or amended, four copies of such revised or amended circular shall be filed as an amendment to the notification with the appropriate regional office of the Commission at least 15 days prior to its use, or such shorter period as the Commission may, in its discretion, authorize upon a written request for such authorization.

§ 230.231 *Offerings not in excess of $50,000.* The offering circular specified in § 230.230 need not be filed or used in connection with an offering of securities under §§ 230.225 to 230.236 if the aggregate offering price of all securities of the issuer, its predecessors and affiliates offered or sold without the use of such an offering circular does not exceed $50,000, computed in accordance with § 230.227 (d) and § 230.228, provided the following conditions are met:

(a) There shall be filed as an exhibit to the notification four copies of a statement setting forth the information (other than financial statements) required by Form 1–A to be set forth in an offering circular.

(b) No advertisement, article or other communication published in any newspaper, magazine or other periodical and no radio or television broadcast in regard to the offering shall contain more than the following information:

(1) The name of the issuer of such security;

(2) The title of the security, amount offered, and the per-unit offering price to the public;

(3) The identity of general type of business of the issuer;

(4) A brief statement as to the general character and location of its property; and

(5) By whom orders will be filled or from whom further information may be obtained.

§ 230.232 *Sales material to be filed.* Four copies of each of the following communications prepared or authorized by the issuer or anyone associated with the issuer, any of its affiliates or any principal underwriter for use in connection with the offering of any securities under §§ 230.225 to 230.236 shall be filed, with the office of the Commission with which the notification is filed, at least five days (exclusive of Saturdays, Sundays, and holidays) prior to any use thereof, or such shorter period as the Commission, in its discretion, may authorize:

(a) Every advertisement, article or other communication proposed to be published in any newspaper, magazine or other periodical;

(b) The script of every radio or television broadcast; and

(c) Every letter, circular or other written communication proposed to be sent, given or otherwise communicated to more than ten persons, except offering circulars filed pursuant to § 230.230 (f)

§ 230.233 *Prohibition of certain statements.* No offering circular or other written or oral communication used in connection with any offering under §§ 230.225 to 230.236 shall contain any language stating or implying that the Commission has in any way passed upon the merits of, or given approval to, the securities offered or the terms of the offering or has determined that the securities are exempt from registration, or has made any finding that the statements in any such offering circular or other communication are accurate or complete.

§ 230.234 *Denial and suspension of exemption.* (a) The Commission may, at any time after the filing of a notification, enter an order temporarily denying the exemption, or if the public offering has commenced, it may enter an order temporarily suspending the exemption, if it has reason to believe that—

(1) No exemption is available under §§ 230.225 to 230.236 for the securities purported to be offered hereunder or any of the terms or conditions of this regulation have not been complied with, including failure to file any report as required by § 230.236;

(2) The notification, the offering circular or any other sales literature contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) The offering is being made or would be made in violation of section 17 of the act;

(4) Any event has occurred after the filing of the notification which would have rendered the exemption hereunder unavailable if it had occurred prior to such filing;

(5) Any person specified in § 230.226 (c) has been indicted for any crime or offense of the character specified in subparagraph (3) thereof, or any proceeding has been initiated for the purpose of enjoining any such person from engaging in or continuing any conduct or practice of the character specified in subparagraph (4) of such paragraph;

(6) Any person specified in § 230.226 (d) has been indicted for any crime or offense of the character specified in subparagraph (1) thereof, or any proceeding has been initiated for the purpose of enjoining any such person from engaging in or continuing any conduct or practice of the character specified in subparagraph (2) of such paragraph; or

(7) The issuer or any promoter, officer, director or underwriter has failed to cooperate, or has obstructed or refused to permit the making of an investigation in connection with any offering made or proposed to be made hereunder.

(b) Upon the entry of an order under paragraph (a) of this section, the Commission will promptly give notice to the persons on whose behalf the notification was filed (1) that such order has been entered, together with a brief statement of the reasons for the entry of the order, and (2) that the Commission, upon

receipt of a written request within 30 days after the entry of such order, will, within 20 days after the receipt of such request, set the matter down for hearing at a place to be designated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of and opportunity for such hearing, either vacate the order or enter an order permanently denying or suspending the exemption.

(c) The Commission may at any time after notice of and opportunity for hearing, enter an order permanently denying or suspending the exemption for any reason upon which it could have entered a temporary denial or suspension order under paragraph (a) of this section. Any such order shall remain in effect until vacated by the Commission.

(d) All notices required by this section shall be given to the person or persons on whose behalf the notification was filed by personal service, registered mail or confirmed telegraphic notice at the addresses of such persons given in the notification. In addition, all such notices will be published in the FEDERAL REGISTER.

(e) The withdrawal of a notification after the entry of an order pursuant to this section shall not operate to make an exemption hereunder available for any securities for which no exemption would be available in the absence of such withdrawal.

§ 230.235 *Consent to service of process.* (a) If the issuer, any of its directors or officers, any person for whose account any of the securities are to be offered, or any underwriter of the securities to be offered, is not a resident of the United States, each such non-resident person shall, at the time of filing the notification required by § 230.229, furnish to the Commission in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which—

(1) Designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought against the person executing the consent and power of attorney or to which he has been joined as defendant or respondent, in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, and (ii) arises out of any offering made or purported to be made under §§ 230.225 to 230.236 or any purchase or sale of any security in connection therewith; and

(2) Stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (b) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its files.

§ 230.236 *Reports of sales under §§ 230.225 to 230.236.* Within 30 days after the end of each three-month period following the commencement of the offering of the securities under §§ 230.225 to 230.236, the issuer or other person for whose account the securities are offered shall file with the Regional Office of the Commission with which the notification was filed four copies of a report on Form 2–A containing the information called for by such form. A final report may be made upon completion or termination of the offering prior to the end of the three-month period in which the last sale is made.

[F. R. Doc. 55–6091; Filed, July 27, 1955; 8:47 a. m.]

[17 CFR Part 240]

MANIPULATIVE AND DECEPTIVE DEVICES AND CONTRIVANCES

PROHIBITION AGAINST TRADING BY PERSONS INTERESTED IN A DISTRIBUTION

Notice is hereby given that the Commission has under consideration a proposed amendment of its §240.10b–6 (Rule X–10B–6) under the Securities Exchange Act of 1934 to make this rule inapplicable to distributions of securities pursuant to certain employee savings or investment plans. The proposed action would be taken under the Securities Exchange Act of 1934, particularly sections 3 (b), 10 (b) and 23 (a) thereof.

Section 240.10b–6, which was adopted by Securities Exchange Act Release No. 5194 dated July 5, 1955, and is effective August 15, 1955, makes it unlawful for certain persons participating or expecting to participate in a distribution of securities, including the issuer of the securities involved in such distribution, to purchase any such security, or any security of the same class and series, until completion of their participation in the distribution, subject to specified exceptions. Under the proposed amendment, the restrictions of the rule would not become applicable by reason of a distribution of securities directly to employees of the issuer or its subsidiaries pursuant to a savings or investment plan involving periodic contributions under formulas provided in the plan, both by the issuer and by the participating employees. It has been suggested that application of the restrictions in present § 240.10b–6 is not necessary in connection with distributions of the type described in the proposed amendment.

The text of the proposed action follows:

Existing paragraph (e) of the section would be redesignated paragraph (f)

A new paragraph (e) would be added to the section as follows:

§ 240.10b–6 *Prohibitions against trading by persons interested in a distribution.* * * *

(e) The provisions of this section shall not apply to any distribution of securities by an issuer directly to its employees, or to employees of its subsidiaries, pursuant to a savings or investment plan involving periodic payments for acquisition of securities by participating employees and regular contributions for such acquisition by the issuer, all pursuant to formulas provided for in the plan.

All interested persons are invited to submit views and comments on the above-mentioned proposal in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before August 12, 1955. Views or comments will be available for public inspection unless in any case a person requests that his comment shall not be made public.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 19, 1955.

[F. R. Doc. 55–6096; Filed, July 27, 1955; 8:48 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11262; FCC 55M-664]

AMERICAN SOUTHERN BROADCASTERS (WPWR)

ORDER SCHEDULING HEARING

In re application of Carrol F Jackson & D. N. Jackson, d/b as AMERICAN SOUTHERN BROADCASTERS (WPWR), Laurel, Mississippi, Docket No. 11262, File No. BP-9440; for construction permit for new Standard Broadcast Station.

It is ordered, This 21st day of July 1955, that William G. Butts is assigned to preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Tuesday, September 20, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary,

[F. R. Doc. 55-6109; Filed, July 27, 1955; 8:50 a. m.]

[Docket No. 11300; FCC 55M-672]

ALLEGHENY-KISKI BROADCASTING CO. (WKPA)

ORDER CONTINUING HEARING

In re application of Allegheny-Kiski Broadcasting Co. (WKPA) New Kensington, Pennsylvania, Docket No. 11300, File No. BP-9546; for construction permit.

The Hearing Examiner having under consideration an informal agreement of parties regarding continuance of hearing;

It is ordered, This 22nd day of July 1955, that the hearing now scheduled for July 26, 1955, is continued until July 29, 1955, at 9:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6110; Filed, July 27, 1955; 8:50 a. m.]

[Docket No. 11441; FCC 55M-665]

PRESS WIRELESS, INC.

ORDER CONTINUING HEARING

In the matter of Press Wireless, Inc., Docket No. 11441, revision of Tariff F C. C. No. 26.

It is ordered, This 21st day of July 1955, pursuant to agreement stated on the record at a prehearing conference held this day, that 1) the prehearing conference is adjourned to Tuesday, September 13, 1955, at 10:00 a. m., in the offices of the Commission, Washington, D. C., and 2) the hearing now scheduled for July 29, 1955 is continued to Wednesday, September 21, 1955, at 10:00 a. m., in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6111; Filed, July 27, 1955; 8:50 a. m.]

[Docket No. 11443; FCC 55M-666]

MORGANTOWN BROADCASTING CO. (WCIG)

ORDER SCHEDULING HEARING

In re application of C. Leslie Golliday, tr/as Morgantown Broadcasting Company (WCIG) Morgantown, West Virginia, Docket No. 11443, File No. BP-9739 for construction permit.

It is ordered, This 21st day of July 1955, that H. Gifford Irion is assigned to preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Tuesday October 4, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6112; Filed, July 27, 1955; 8:51 a. m.]

[Docket Nos. 11444; 11445; FCC 55M-667]

COLUMBIA-MT. PLEASANT AND SPRING HILL RADIO CORP. AND SAVANNAH BROADCASTING CO.

ORDER SCHEDULING HEARING

In re application of Columbia-Mt. Pleasant and Spring Hill Radio Corporation, Columbia, Tennessee, Docket No. 11444, File No. BP-9557; S. Q. Hanna tr/as The Savannah Broadcasting Co., Savannah, Tennessee, Docket No. 11445, File No. BP-9697; for construction permits.

It is ordered, This 21st day of July 1955, that William G. Butts is assigned to preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Monday, October 10, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6113; Filed, July 27, 1955; 8:51 a. m.]

[Docket Nos. 11446, etc. FCC 55M-668]

CERRITOS BROADCASTING CO. ET AL.

ORDER SCHEDULING HEARING

In re applications of Raymond B. Torian, John W. Doran, Foster Earl Rutledge and Harold B. Shideler, a partnership d/b as The Cerritos Broadcasting Co., Signal Hill, California, Docket No. 11446, File No. BP-8734; Melvin F Berstler and Roy R. Cone, a partnership d/b as Oceanside-Carlsbad Broadcasting Co., Oceanside, California, Docket No. 11447, File No. BP-9207; Albert John Williams, Inglewood, California, Docket No. 11448, File No. BP-9509; Neil W Owen and Julia C. Owen, a partnership d/b as Palomar Broadcasting Co., Escondido, California, Docket No. 11449, File No. BP-9676; for construction permits.

It is ordered, This 21st day of July 1955, that J. D. Bond is assigned to preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Monday, October 17, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6114; Filed, July 27, 1955; 8:51 a. m.]

[Docket No. 11454; FCC 55M-669]

NORWALK BROADCASTING CO., INC. (WNLK)

ORDER SCHEDULING HEARING

In re application of Norwalk Broadcasting Company, Incorporated (WNLK) Norwalk, Connecticut, Docket No. 11454, File No. BP-9755; for construction permit.

It is ordered, This 21st day of July 1955, that Hugh B. Hutchison is assigned to preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Monday, October 3, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6116; Filed, July 27, 1955; 8:51 a. m.]

[Docket Nos. 11455 etc., FCC 55M-670]

ROBERT E. BOLLINGER ET AL.

ORDER SCHEDULING HEARING

In re applications of Robert E. Bollinger, Portland, Oregon, Docket No. 11455, File No. BP-9320; Mercury Broadcasting Company, Inc. (KLIQ), Portland, Oregon, Docket No. 11456, File No. BP-9400; Docket No. 11457, File No. BR-2266; Albert L. Capstaff and H. Quenton Cox, a partnership d/b as Capstaff Broadcasting Company, Oreg. Ltd., Portland, Oregon, Docket No. 11458, File No. BP-9585; for construction permits and renewal of license.

It is ordered, This 21st day of July 1955, that Basil P Cooper is assigned to

preside at the hearing in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Monday, October 3, 1955, in Washington, D. C.

Released: July 22, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6117; Filed, July 27, 1955; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7253]

LOUISVILLE-NEW YORK NONSTOP CASE

NOTICE OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on August 1, 1955, at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., July 25, 1955.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 55-6127; Filed, July 27, 1955; 8:53 a. m.]

GENERAL SERVICES ADMINISTRATION

[Project No. 3-DC-01]

FEDERAL OFFICE BUILDING

PROSPECTUS FOR PROPOSED BUILDING IN SOUTHWESTERN PORTION OF THE DISTRICT OF COLUMBIA

EDITORIAL NOTE: This prospectus of proposed Project Number 3-DC-01 is published pursuant to section 412 (f) of the Public Buildings Purchase Contract Act of 1954, as amended by Public Law 150, 84th Congress, which requires publication in the FEDERAL REGISTER for a period of ten consecutive days from date of submission to the Committees on Public Works of the Senate and House of Representatives.

Project Number 3-DC-01

PROSPECTUS FOR PROPOSED BUILDING UNDER TITLE I, PUBLIC LAW 519, 83D CONGRESS, 2D SESSION

FEDERAL OFFICE BUILDING, WASHINGTON, D. C.

A. *Brief description of proposed building:*

The project contemplates the erection of a Federal Office Building on a site to be acquired in the Southwest redevelopment area.

The proposed building will be a six-story and penthouse structure, stone exterior, with cafeteria included, and air conditioned throughout. It will have a gross floor area of 815,000 square feet, that will provide 558,000 square feet of net space, of which 500,000 square feet will be office area, 10,000 square feet for shops, 34,000 square feet for cafeteria, and 14,000 square feet for custodial, health unit, etc.

B. *Maximum cost and financing:*

1. Total over-all value of project		$20,200,000
a. Items not included in purchase contract:		
(1) Architectural	$995,000	
(2) Land	2,500,000	
		$3,495,000
b. Purchase contract costs:		
(1) Improvements		$16,705,000
2. Contract Term		10 to 25 years
3. Maximum rate of interest on purchase contract		4%

C. *Estimated annual costs:*

1. 25 Year Contract Term:		
a. Purchase contract payments:		
(1) Amortization and interest	$1,069,320	
(2) Taxes	251,213	
Rate per net sq. ft. $2.37.		$1,320,533
b. Costs not included in purchase contract payments:		
(1) Custodial and utilities	$538,000	
(2) Repair and maintenance	82,000	
Rate per net sq. ft. $1.11.		$620,000
c. Total Estimated Annual Cost		$1,940,533
Rate per net sq. ft. $3.48.		
2. Second 25 Year Term:		
a. Custodial and utilities		$538,000
b. Repairs and maintenance		160,000
c. Total Estimated Annual Cost		$698,000
Rate per net sq. ft. $1.25.		
3. 50 Year Average:		
a. Total Estimated Annual Cost		$1,319,267
Rate per net sq. ft. $2.36.		
4. Annual Rental Costs for Comparable Space (Net Agency)		$1,970,000
Rate per net sq. ft. $3.94.		
5. Maximum Annual Payment Permitted (15% of fair market value.)		$3,030,000

NOTE: All estimates based on 1955 price levels.

D. *Present annual rental and other housing costs:*

	Net sq. ft.	Unit cost	Total cost
1. Existing Tempo's 4, 5 and T (or comparable space), to be supplanted by proposed building	500,522	$9.09	$4,95,760

E. *Justification of project:*

1. Lack of Suitable Space:

a. The needs for space for the permanent activities of the Federal Government cannot be satisfied by utilization of existing Government-owned space.

b. Suitable rental space of comparable sort and characteristics is not available at a price commensurate with that to be afforded through the contract proposed.

c. The space requested and proposed is needed for permanent activities of the Federal Government.

d. The best interest of the Government will be served by taking the action proposed.

2. Existing Conditions:

During the past several years there has been an active and widespread movement on the part of the public and Governmental agencies, notably the Commission of Fine Arts, concerning the removal of World War I and II Tempos and the restoration of the park lands.

Data compiled as of December 31, 1954, indicates that the Federal Government is currently utilizing four (4) World War I Tempo's, providing 2,083,903 square feet of net agency space, with 16,506 personnel; and 35 World War II Tempo's, providing 3,585,063 square feet, with 22,823 personnel. In summary, 39 Tempo's, providing a total of 5,668,966 square feet of net agency space, with aggregate personnel of 39,329. The aforementioned figures do not include space or personnel of the Central Intelligence Agency.

The Congress, long sympathetic to the insistent demand for the razing of the Tempo's has considered several proposed bills to accomplish this purpose. Among these was S 1290, passed in the Senate on June 8, 1955, and enacted as Public Law 150, 84th Congress, approved July 12, 1955. That law expressly manifests the intent of Congress that (1) provision of accommodations for executive agencies by GSA as a part of the program for redevelopment of the southwest portion of the District of Columbia be accomplished on a lease-purchase basis and (2) temporary space of equivalent occupancy be demolished.

The proposed building will provide approximately 500,000 square feet of net office space, to accommodate equivalent personnel dispossessed from temporary buildings contemplated for initial demolition under current long-range planning programs.

3. Direct and Indirect Benefits Expected to Accrue.

a. Agencies whose related operations are scattered among two or more locations will be able to concentrate all of them in a single location and thereby realize appreciable economies deriving from such factors as contiguity of operating elements, immediate accessibility of employees and records, and elimination of transportation and communication delays.

b. The accommodation of Federal agencies in a single building will provide flexibility in making internal reassignments of agency space where increases or decreases in requirements occur.

c. The proposed building will be functional in concept and devoid of excessive embellishment and extravagant appointments. The design of the building and facilities will provide for the utmost economy in construction; maintenance and operation costs considered. It will be provided with modern fittings, appointments and conveniences comparable to those provided in buildings of private enterprise. Maintenance and improvement of employee morale and the consequent increasing of employee efficiency over a period of years may thus be confidently expected to result in intangible though nonetheless real economies.

F. *Analysis of project space:*

1. Since this project is intended to provide for relocation of numerous Federal activities now housed in temporary buildings, no specific allocation of space among agencies can be made. Therefore requirement for Certificate of Need otherwise required by Section 411 (e) of the Public Buildings Purchase Contract Act of 1954 was waived in Public Law 150, 84th Congress.

2. Space:

a. Distribution:

Agency	Tempo's 4, 5, and T proposed			
	Net sq. ft.	Personnel	Net sq. ft.	Personnel
The specific allocation of agencies to be quartered in the proposed building has not been presently determined.				
Subtotal, Agency Space	500,520	3,072	500,000	3,700
General Services:				
Custodial and Shops			22,000	132
Health Unit and Vending Stand			2,000	3
Cafeteria			34,000	50
Total	500,520	3,072	558,000	3,885

b. Utilization:

Agency Space—sq. ft. per person	163	135
Total Space—sq. ft. per person	163	144
c. Efficiency Ratio, net to gross (net assignable)		68.5%

G. *Analysis of project cost:*

1. Costs of Improvements—Normal:		
a. Construction	$12,250,000	
b. Elevator	430,000	
c. Air Conditioning	1,750,000	
d. Interest, taxes, etc., during construction	730,000	
Cost per gross sq. ft. $18.60.		$15,160,000
2. Costs of Improvements—Additional:		
a. Approaches & utilities	$150,000	
b. Steam connection	120,000	
c. Stone face	525,000	
d. Contingencies	750,000	
		$1,545,000
3. Total Cost of Improvement		$16,705,000
4. Costs Not Included in Purchase Contract:		
a. Architectural	$995,000	
b. Land to be acquired (Est. Cost)	2,500,000	
		$3,495,000
5. Total over-all value of project		$20,200,000

H. *Other selected data:*

1. The proposed contract provisions will not exceed the amount necessary to:

a. Amortize principal.

b. Provide interest not to 4% of the outstanding principal.

c. Reimburse contractor for the cost of taxes and interest during construction.

d. Reimburse contractor for proportional charge for redevelopment general area, streets and utilities.

2. It is proposed to make awards on financing and construction by competition.

3. Estimated completion date for the project is 40 months from date of final approval.

4. Taxes computed on basis of 75% ratio and $22.00 per $1,000.

5. Insurance included during construction only as part of total cost borne by construction contractor. During post-construction period Government will act as self-insurer.

Project Number 3-DC-01

Submission

Submitted at Washington, D. C.

Recommended:

[S] PETER A. STROBEL,
Commissioner of Public Buildings Service, General Services Administration.

Approved:

[S] A. E. SNYDER,
Acting Administrator, General Services Administration.

Statement of Director, Bureau of the Budget

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D. C.

Project 3-DC-01
Federal Office Building,
Southwest Redevelopment Area,
Washington, D. C.

JULY 22, 1955.

MY DEAR MR. MANSURE:

Pursuant to section 411 (e) (8) of the Public Buildings Purchase Contract Act of 1954 (Public Law 519), the proposal for a Federal Office Building, transmitted with your letter of June 28, 1955, has been examined and in my opinion "is necessary and in conformity with the policy of the President." This approval is given with the following understandings:

1. That the project cost of $20,200,000 (including $2,500,000 for land to be acquired) is a maximum figure.

2. That the reported annual operating cost of existing Tempos 4, 5 and T, i. e., 99¢ per sq. ft., represents minimum maintenance in anticipation of demolition, and that temporary Government buildings actually cost more to maintain than the proposed new building.

3. That the proposed building will house some 10 percent of Federal employes presently housed in temporary buildings, and that the specific allocation of agencies in the proposed building is to be determined later by GSA.

4. That every effort will be made to design and construct space conducive to maximum efficient utilization and to take advantage of any revision of cost downward which may be found possible as the plans develop and negotiations are advanced.

You appreciate, of course, that this project will receive a more detailed review as to cost and space utilization prior to approval of the lease-purchase agreement.

Sincerely yours,

[Signed] ROWLAND HUGHES,
Director.

HON. EDMUND F MANSURE,
Administrator,
General Services Administration,
Washington 25, D. C.

[F. R. Doc. 55-6130; Filed, July 26, 1955; 10:09 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document No. 57]

ARIZONA

RESTORATION ORDER UNDER FEDERAL POWER ACT

JULY 22, 1955.

1. Pursuant to a determination of the Federal Power Commission Docket No. DA-125—Arizona and pursuant to authority delegated by document No. 43, Arizona, effective May 19, 1955 (20 F R. 3514-15), it is ordered as follows:

2. Subject to valid existing rights and the provisions of existing withdrawals the lands herein described, so far as they are reserved for power purposes, are hereby opened to location, entry, and patent under the United States mining laws, subject to Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818) as amended and subject to the stipulation that if and when the said lands are required for power development, any structures or improvements placed thereon by the locator or his successors, which are found to interfere with such development, shall be removed or relocated without cost or liability to the United States, its permittees or licensees.

GILA AND SALT RIVER MERIDIAN

T. 27 N., R. 10 E.,
Sec. 4: Lot 1 SE¼NE¼, E½SE¼,
Sec. 28: Lots 1 to 5 inclusive NE¼NW¼, SW¼NW¼, NW¼SW¼, SE¼SW¼.

The area described totals 333.49 acres of public land.

3. The subject lands are withdrawn in Water Power Designation No. 6 of February 9, 1917, and Power Site Reserve No. 451 of October 23, 1914, which are construed by Interpretation No. 231, dated November 22, 1934.

4. A large part of the lands lie below elevation 4300 feet and would be inundated by backwater from the Coconino Dam, which is a suggested flood control project of the Bureau of Reclamation on the Little Colorado River, to be located about 21 miles down the stream from the subject lands. Development of the suggested project appears to be remote.

5. The State of Arizona has waived the 90 day preference right by the Act of

May 28, 1948 (62 Stat 275) and Section 24 of the Federal Power Act as amended.

6. This order shall not otherwise become effective to change the status of the lands until 10:00 a. m. m. s. t. on the 10th day after the date of this order. At that time the lands shall, subject to valid existing rights, the provisions of existing withdrawals, and the terms of this order, become subject to location, entry, and patent under the United States mining laws.

7. Inquiries concerning these lands shall be addressed to the Manager, Arizona Land Office, Bureau of Land Management, Room 251 Main Post Office Building, Phoenix, Arizona.

E. R. TRAGITT,
State Lands and Minerals Staff Officer

[F. R. Doc. 55-6081; Filed, July 27, 1955; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ADMINISTRATOR OF COMMODITY EXCHANGE AUTHORITY

DELEGATION OF AUTHORITY TO ISSUE SUBPENAS; SERVICE OF SUBPENAS; OATHS AND AFFIRMATIONS; FEES

a. Pursuant to the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (7 U. S. C. 1-17a) as amended by Public Law 82, 84th Congress, Chapter 151, entitled "An Act To strengthen the investigation provisions of the Commodity Exchange Act" approved June 16, 1955 (69 Stat. 160) the Administrator of the Commodity Exchange Authority is hereby authorized to issue subpenas in connection with any investigation under the Commodity Exchange Act, requiring witnesses to appear and testify and to produce documentary evidence before such investigating officials or employees of the Commodity Exchange Authority as may be designated by the Administrator for that purpose. Such testimony and production of documentary evidence may be required from any place in the United States to any specified place of investigation. Subpenas may be issued (1) by the Administrator of the Commodity Exchange Authority upon his own motion, or (2) upon the application of the Deputy Administrator, Assistant Administrator, or Director of the Compliance and Trade Practice Division of the Commodity Exchange Authority, and upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof. Subpenas for the production of documentary evidence shall, unless issued by the Administrator of the Commodity Exchange Authority upon his own motion, be issued only upon a written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality, and the necessity for their production.

b. Subpenas may be served (1) by a United States Marshal or his deputy or (2) by any employee of the United States Department of Agriculture or of any other government agency, who is not less than 18 years of age, or (3) by registering and mailing a copy of the subpena addressed to the person to be served at his or its last known principal place of business or residence. Proof of service may be made by the return of service of the subpena by the United States Marshal or his deputy or, if served by an individual other than a United States Marshal or his deputy, by an affidavit of such person, stating that he personally served a copy of the subpena upon the person named therein; or, if service was by registered mail, by the signed returned post office receipt. In making personal service, the person making service shall leave a copy of the subpena with the person subpenaed. The original, bearing or accompanied by the original proof of service, shall be returned to the Administrator of the Commodity Exchange Authority.

c. Pursuant to the authority vested in the Secretary of Agriculture by the Act of January 31, 1925 (43 Stat. 803, 5 U. S. C. 521) the Administrator, the Deputy Administrator, the Assistant Administrator, the Director of the Compliance and Trade Practice Division, and any investigatory employee of the Commodity Exchange Authority are hereby authorized and empowered to administer oaths and affirmations and to take the sworn statements or affidavits of persons who appear before them by subpena or otherwise.

d. Witnesses summoned by subpena in accordance with the authority herein contained may be paid the same fees and mileage as are paid witnesses in the courts of the United States.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

JULY 25, 1955.

[F. R. Doc. 55-6123; Filed, July 27, 1955; 8:52 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF TRANS-PACIFIC PASSENGER CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to § 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 131-218, between the member lines of the Trans-Pacific Passenger Conference, modifies the by-laws of the basic conference agreement (No. 131) to provide for the payment of commissions to recognized missionary societies and to secretaries of missionary societies on traffic of bona fide missionaries and their dependents from the Orient to the Pacific Coast. Agreement 131 presently provides for the payment of such commissions on such traffic from the Pacific Coast to the Orient.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: July 22, 1955.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-6102; Filed, July 27, 1955; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2018]

EL PASO NATURAL GAS CO.

NOTICE OF HEARING ON REHEARING

JULY 22, 1955.

By order issued December 22, 1954, as modified by a further order issued February 8, 1955, the Commission, upon application of El Paso Natural Gas Company, granted rehearing upon and stay of the order issued herein on November 26, 1954, accompanying Opinion No. 278. The order issued February 8, 1955, provided that further hearing be held in this matter upon a date to be thereafter fixed by order.

Notice is hereby given that a public hearing will be held commencing September 13, 1955, at 10:00 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the issues raised and the matters presented by the application of El Paso Natural Gas Company for rehearing and stay and the application for modification of the aforesaid order issued December 22, 1954, as well as all proper and related issues affecting the amount of refunds under such applications.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6035; Filed, July 27, 1955; 8:45 a. m.]

[Docket Nos. G-6922, G-6323, G-6324, G-6925]

NOLLEM OIL & GAS CORP.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JULY 22, 1955.

Take notice that Nollem Oil & Gas Corporation, Applicant, a Pennsylvania corporation, whose address is Pittsburgh, Pennsylvania, filed on November 30, 1954, applications for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to continue to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Applicant produces natural-gas from Mt. Lake Park field, Garrett County, Maryland, and from Gillespie Run Field, Richie County, West Virginia, and sells it in interstate commerce to the Cumberland and Allegheny Gas Company and

South Penn Natural Gas Company, respectively, for resale. The prices of the gas as shown are 20 and 20.5 cents per M c. f. at 15.028 p. s. i.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on August 23, 1955, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before August 10, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6086; Filed, July 27, 1955; 8:46 a. m.]

[Docket Nos. G-6926, G-6927, G-6928, G-6929]

OIL WELL DRILLING CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JULY 22, 1955.

Take notice that Oil Well Drilling Company, Applicant, a new Mexico corporation, whose address is Dallas National Bank Building, Dallas 1, Texas, filed on November 30, 1954, applications for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Applicant produces natural-gas from the Harper and Goldsmith Fields, in Ector County Texas, and from Drinkard Field and the Eunice-Mounment Field, Lea County, New Mexico, and sells the same in interstate commerce to Phillips Petroleum Company, Skelly Oil Company and Warren Petroleum Corporation respectively for resale. The prices for the gas as shown range from 4.5 to 12.5 cents per Mcf, as shown in the respective applications.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on August 23, 1955, at 9:45 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before August 10, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6087; Filed, July 27, 1955; 8:46 a. m.]

[Docket No. G-9161]

TEXAS CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

The Texas Company on June 23, 1955, tendered for filing proposed changes in its presently effective rate schedule for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

Description	Purchaser	Rate schedule designation	Effective date [1]
Notice of change, dated June 16, 1955.	Texas Illinois Natural Gas Pipeline Co.	Supplement No. 2 to applicant's FPC gas rate schedule No. 1.	Sept. 1, 1955

[1] The stated effective date is the first day after expiration of the required 30 days' notice, or the effective date proposed by respondent if later.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in Sections 4 and 15 of the Natural Gas Act, and the Commission's General Rules and Regulations, a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until February 1, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) of the Commission's Rules of Practice and Procedure.

Adopted: July 20, 1955.

Issued: July 21, 1955.

By the Commission.[2]

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6090; Filed, July 27, 1955; 8:46 a. m.]

[2] Commissioner Digby dissenting.

[Docket No. G-6933]

STANLEY J. TEPE

NOTICE OF APPLICATION AND DATE OF HEARING

JULY 22, 1955.

Take notice that Stanley J. Tepe, Applicant, an individual whose address is 15000 Woodward Avenue, Detroit, Michigan, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas in Leidy Township, Clinton County, Pennsylvania, and sells it in interstate commerce to the New York State Natural Gas Company for resale. The price of the gas is stated at 5.5 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on August 23, 1955, at 10:00 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceeding pursuant to the provisions of

section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before August 10, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-6088; Filed, July 27, 1955; 8:46 a. m.]

[Docket No. G-5510]

FOREST OIL CORP.

NOTICE OF FURTHER CONTINUANCE OF HEARING

JULY 21, 1955.

Upon consideration of the request of Counsel for Forest Oil Corporation, filed July 18, 1955, for further continuance of the hearing now scheduled for July 27, 1955, in the above-designated matter;

The hearing now scheduled for July 27, 1955, is hereby postponed to September 15, 1955, at 10:00 a. m., e. d. s. t., in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-6089; Filed, July 27, 1955; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24NY-3691]

NATIONAL NEGRO THEATRE, TELEVISION AND MOTION PICTURE INDUSTRIES, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JULY 22, 1955.

I. National Negro Theatre, Television and Motion Picture Industries, Inc. (National) the last known address of which was Suite 605, Carnegie Hall, 881 Seventh Avenue, New York 19, New York, having filed with the Commission on May 18, 1954, a notification on Form 1-A and offering circular and amendments thereto on May 27, 1954, and August 11, 1954, relating to a proposed offering of 100,000 shares of $1.00 par value preferred stock and 40,000 shares of $1.00 par value common stock at $1.00 per share or $140,000 in the aggregate, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; and

II. The Commission having been advised that on February 4, 1955, National consented to the entry of a judgment of the New York State Supreme Court permanently enjoining it from engaging in any business relating to the purchase or sale of any security; and

It appearing necessary and appropriate in the public interest and for the protection of investors to suspend the exemption under Regulation A under the Securities Act of 1933;

III. *It is ordered* Pursuant to Rule 223 (a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

It is further ordered, That this Order and Notice shall be served upon National and Warren Coleman personally or by registered mail or by confirmed telegraphic notice, and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-6092; Filed, July 27, 1955; 8:47 a. m.]

[File No. 24NY-3449]

SPECTRUM ARTS, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JULY 22, 1955.

I. Spectrum Arts, Inc. (Spectrum) the last known address of which was Suite 605, Carnegie Hall, 881 Seventh Avenue, New York 19, New York, having filed with the Commission on July 22, 1953, a notification on Form 1-A and offering circular and amendments thereto on July 30, 1953, and August 24, 1953, relating to a proposed public offering of 300 shares of $100 par value preferred (non-voting) stock at $100 per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; and

II. The Commission having been advised that on February 4, 1955, National Negro Theatre, Television and Motion Picture Industries, Inc., an affiliate of Spectrum, consented to the entry of a judgment of the New York State Supreme Court permanently enjoining it from engaging in any business relating to the purchase or sale of any security; and

It appearing necessary and appropriate in the public interest and for the protection of investors to suspend the exemption under Regulation A under the Securities Act of 1933;

III. *It is ordered* Pursuant to Rule 223 (a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

It is further ordered That this Order and Notice shall be served upon Spectrum and Warren Coleman personally or by registered mail or by confirmed telegraphic notice, and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-6093; Filed, July 27, 1955; 8:47 a. m.]

[File No. 27-5]

NORTHWEST URANIUM CORP.

AMENDMENT TO TEMPORARY ORDER OF SUSPENSION

JULY 22, 1955.

The Commission having, by Order dated August 16, 1954, temporarily suspended, pursuant to Rule 509 (a) of the General Rules and Regulations under the Securities Act of 1933, as amended, the conditional exemption under Regulation D for an offering by Northwest Uranium Corporation of its securities; and

Additional information having been brought to the attention of the Commission in this matter;

It is ordered That section II of the Order be amended to include as an additional ground for the issuance thereof the following:

E. The New York State Supreme Court on June 22, 1955, permanently enjoined Northwest Uranium Corporation, Royal Securities Corporation, and others from engaging in any activities in connection with the purchase or sale of any security or conducting a business as a broker or dealer in securities.

It is further ordered, That this Order shall be served on Northwest Uranium Corporation, Registrar & Transfer Company, 15 Exchange Place, Jersey City, New Jersey, and Royal Securities Cor-

poration, 52 Broadway, New York, New York, personally or by registered mail or confirmed telegraphic notice and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-6094; Filed, July 27, 1955; 8:47 a. m.]

[File No. 24D-1376]

FOUR STATES URANIUM CORP.

MEMORANDUM OPINION AND ORDER VACATING ORDER OF SUSPENSION

JULY 22, 1955.

Four States Uranium Corporation ("Four States") filed with the Commission on August 16, 1954, a notification on Form 1-A and an offering circular, and amendments thereto on September 21, 1954, and September 24, 1954, relating to a proposed public offering of 300,000 shares of its $1 par value common stock, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder.

The Commission on October 11, 1954, ordered, pursuant to Rule 223 (a) of the General Rules and Regulations under said act, that the exemption under Regulation A be temporarily suspended on the grounds that the terms and conditions of said Regulation A were not being complied with in that (1) an offering circular was not being delivered to offerees and purchasers of said stock as required by Rule 219 (a) and (2) the offering was commenced and securities sold prior to the time permitted by Rule 219 (e) The Order of the Commission gave notice that, upon receipt of a written request, the matter would be set down for hearing for the purpose of determining whether the temporary order of suspension should be vacated or made permanent.

A hearing was held before a hearing officer pursuant to the request of Four States. A recommended decision by the hearing officer was waived by the parties.

Although the record establishes the basis for the issuance of the temporary suspension order on the aforementioned grounds, certain events have transpired during the course of the hearing which, in our opinion, make it unnecessary in the public interest or for the protection of investors to make the temporary suspension order permanent and persuade us to vacate the order heretofore issued.

At the time of the entry of our temporary suspension order, the financial policies of Four States were determined and largely executed by Joe Rosenthal, a director and the underwriter of the proposed issue; Clarence C. Sterns, the president and a director and Clyde D. Moslander, Jr., the secretary-treasurer and a director. On February 15, 1955, a majority of the outstanding stock of Four States was acquired by Consolidated Virginia Mining Company ("Consolidated Virginia") and Temple Mountain Uranium Company ("Temple Mountain") Consolidated Virginia and Temple Mountain had no previous connection or affiliation with Four States through stockholdings, interlocking management or otherwise. New management consisting of officers and directors of these two companies has been installed and exercises control of Four States. The assets of Four States have been sold to Consolidated Virginia and Temple Mountain in exchange for stock of these companies. The contract of Rosenthal as underwriter has been terminated; he is no longer a director and has assigned and surrendered to Four States 85,000 shares of the 125,000 shares originally issued to him. Sterns is no longer an officer or director of Four States and has transferred 70,000 shares of his holdings of 95,000 shares of stock in Four States to Consolidated Virginia for cash and stock in that company. Moslander is no longer a director of Four States and is now acting at the convenience of the company as assistant secretary-treasurer with ministerial duties only, and has transferred his holdings of 25,000 shares of Four States to Consolidated Virginia for stock of that company. Messrs. Rosenthal, Sterns and Moslander have never had and do not now have any material interest in either consolidated Virginia or Temple Mountain.

After Four States made its filing under Regulation A, it sold 21,050 shares of its stock to the public. The sale of these shares without compliance with the requirements imposed by the regulation formed the basis for the issuance of our temporary suspension order. The new management undertook to rescind such sales and to refund the full purchase price to the purchasers. This has now been accomplished, and there are no longer any public investors.

In view of the foregoing, it appears to us that the basis for our temporary suspension order no longer exists. We are also mindful of the fact that if our temporary suspension order is not vacated, Consolidated Virginia and Temple Mountain as well as Four States and their affiliates would be barred from making use of Regulation A for a period of five years from the entry of that order.

It is therefore ordered, Pursuant to Rule 223 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that said temporary order of suspension be, and it hereby is, vacated.

It is further ordered, That this Memorandum Opinion and Order shall be served upon Four States Uranium Corporation personally or by registered mail or by confirmed telegraphic notice and shall be published in the FEDERAL REGISTER.

By the Commission.[1]

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-6095; Filed, July 27, 1955; 8:48 a. m.]

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[1] Commissioner Adams being absent and not participating.